

103 Y4.R 31/3:103-90

# ARTICLES OF RELATIONS FOR U.S. TERRITORIES

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Y4.M 53:103-90

~~FNC and Harad Authorizations Fiscal...~~ MORE THE

COMMITTEE ON  
INSULAR AND INTERNATIONAL AFFAIRS  
OF THE  
COMMITTEE ON  
NATURAL RESOURCES  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED THIRD CONGRESS  
SECOND SESSION  
ON

**H.R. 4442**

TO PROVIDE CONSULTATIONS FOR THE DEVELOPMENT OF ARTICLES  
OF RELATIONS AND SELF-GOVERNMENT FOR INSULAR AREAS OF THE  
UNITED STATES

HEARING HELD IN WASHINGTON, DC

MAY 24, 1994

**Serial No. 103-90**

Printed for the use of the Committee on Natural Resources



U.S. GOVERNMENT PRINTING OFFICE

81-721

WASHINGTON : 1994

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## HEARING BEFORE THE SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS OF THE COMMITTEE ON NATURAL RESOURCES HOUSE OF REPRESENTATIVES ONE HUNDRED THIRD CONGRESS

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# CONTENTS

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	Page
Hearing held: May 24, 1994 .....	1
Text of the bill: H.R. 4442 .....	3
Member statements:	
Hon. Ron de Lugo .....	1
Hon. Don Young .....	6
Hon. Carlos Romero-Barceló .....	13
Hon. Elton Gallegly .....	15
Hon. Eni F.H. Faleomavaega .....	18
Hon. Robert A. Underwood .....	25
Witness statements:	
Hon. Alexander A. Farrelly, Governor, U.S. Virgin Islands .....	31
Hon. Baltasar Corrada del Río, Secretary of State of the Commonwealth of Puerto Rico .....	41
Hon. Celeste Benitez, representing the Popular Democratic Party of Puerto Rico .....	66
Manuel Rodriguez-Orellana, Esq., representing the Puerto Rican Inde- pendence Party .....	92
Daniel Zafrin, specialist in American law, Congressional Research Serv- ice .....	107
Hon. Kenneth McClintock Hernandez, Chairman, Committee on Federal and Economic Affairs, Senate of Puerto Rico .....	112
Hon. Pilar Lujan, Senator, Legislature of Guam, and Vice Chair, Guam Commission on Self-Determination .....	125
Panel consisting of:	
Hon. Juan N. Babauta, Resident Representative to the United States, Commonwealth of the Northern Mariana Islands .....	157
Hon. Pedro P. Reyes, Representative, Legislature of the Common- wealth of the Northern Mariana Islands, on behalf of Hon. Diego T. Benavente, Speaker of the House of Representatives, Ninth Commonwealth Legislature .....	162
Dr. Miriam Ramirez de Ferrer, president, Puerto Ricans in Civic Action, accompanied by Thomas Ferrer, vice president, Puerto Ricans in Civic Action, and Ricardo Aponte, congressional liaison, Puerto Ricans in Civic Action .....	184
Arturo Guzman, co-chairman, I.D.E.A. (Institute for the Development, Equality and Advancement of Puerto Rico) .....	255
Material submitted for the hearing record from:	
Leslie M. Turner, Assistant Secretary of the Interior for Territorial and International Affairs: Prepared statement .....	59
Hon. Ron de Lugo: Letter dated March 9, 1994, to Chairman de Lugo from Marcia L. Hale, Assistant to the President and Director of Inter- governmental Affairs .....	110
Hon. Pilar C. Lujan:	
1. Testimony of Hon. Joseph F. Ada, Governor of Guam .....	134
2. Testimony of Hon. Joe T. San Agustin, Speaker, Twenty-Second Guam Legislature .....	148
Hon. Pedro P. Reyes: Resolutions of the Eighth and Ninth Common- wealth Legislatures, Northern Marianas .....	163
Dr. Miriam Ramirez:	
1. Transcripts and documents from past congressional hearings on the organization of a constitutional government in Puerto Rico .....	186
2. Legislative history of Puerto Rico constitutional government bill .....	212

## APPENDIX

MAY 24, 1994

Additional material submitted for the hearing record:

Letter from Angel A. Valencia-Aponte, Attorney at Law, San Juan, Puerto Rico, to Hon. Don Young, dated June 16, 1994, and attachments .....	267
Letter from Coalition for Protection of Puerto Rican Culture and Nationality, Edina, Minnesota, to Hon. Don Young, dated June 14, 1994, and attachment .....	281
Letter from Luis Vega Ramos, President Juventud Autonomista Puertorriqueña, Rio Piedras, Puerto Rico, to Chairman Ron de Lugo, dated May 23, 1994 .....	284
Letter from Manuel Roman Valentin, Republica Asociada, Mayaguez, Puerto Rico, to Hon. Don Young, dated May 16, 1994, and attachments .....	285

# **H.R. 4442, TO PROVIDE CONSULTATIONS FOR THE DEVELOPMENT OF ARTICLES OF RELATIONS AND SELF-GOVERNMENT FOR INSULAR AREAS OF THE UNITED STATES**

**TUESDAY, MAY 24, 1994**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON NATURAL RESOURCES,  
SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:08 a.m. in room 1310, Longworth House Office Building, Hon. Ron de Lugo (chairman of the subcommittee) presiding.

## **STATEMENT OF HON. RON de LUGO**

Mr. DE LUGO. The Subcommittee on Insular and International Affairs will come to order. Our hearing today is on a bill that has the potential of being among the most important before this Congress should a consensus on it develop among the people most affected, and perhaps with some amendments.

This is because it suggests establishing a clear process for finally resolving questions about the political status of some of the relatively few remaining places on the earth in which status questions still persist: The five United States insular areas where 4 million people live.

H.R. 4442 gets to the heart of the issue. Although the commonwealths and territories are locally self-governing, similar to States, a national government in which they do not have a full vote also makes policies for them.

The reasons that we still face this issue include attitudes which may be out of date in the modern world and local political competition, but they also include the lack of an established Federal commitment to seriously consider solutions. The process that this bill proposes could possibly be used to develop the creative measures that some insular leaders have really meant when they use the word commonwealth, including recognition of a permanent relationship governed by a mutual agreement.

This is especially important for areas for which statehood is not an option and which are too tied to the United States to want independence. But the basic process could also be used to seek statehood as well as the transition of incorporated status or independence or the independence with limitations of free association.

The essential goal, it seems to me, should be to provide a realistic means for insular citizens and the Federal Government to mu-

tually determine critical aspects of their relationship consistent with the right of self-determination and ensuring Federal action.

The bill itself would require the President to name a personal representative to negotiate measures for political empowerment with representatives of an insular area if and only if the area requests negotiations before 1998. It would require the negotiations to submit recommendations to Congress within one year.

Any measures approved by the United States would only take effect if accepted by the people of the insular area and there is language to prevent the establishment of this process from interfering with other status initiatives such as the initiative by Guam that is working towards commonwealth status and the initiative that has begun as a result of the plebiscite that was recently held in Puerto Rico.

The distinguished Representative from Alaska is to be commended for proposing a process for addressing insular status issues for the U.S. insular areas.

His initiative is a good-faith effort to respond to a very serious issue. While it is an interesting approach, some matters may need to be addressed; perhaps this measure should clearly recognize the existing commonwealth petitions from Guam and Puerto Rico.

We may want to require that the process be initiated by a plebiscite or consistent with results of one or after a general election so that it is tied to a popular mandate.

Maybe the scope should be broadened to clearly enable the process to address issues and the relationship in addition to those strictly of insular empowerment in areas of national authority.

We should also carefully examine how the process conforms with accepted and applicable self-determination of people's principles. While it can be argued that the best means of organizing the Federal Government is essentially Federal business, it is a matter in which the views of the insular representatives should carry great weight and they do with this chairman.

The question of this hearing is whether enough insular leaders feel that the concept of this bill is an appropriate and useful one. Because, as I suggested at the outset, an insular consensus is essential if such a measure is to move forward.

If insular witnesses see the potential in this bill that I have speculated about and are willing to pursue it, I hope that they will provide any constructive recommendations on what needs to be done to ensure that it can help resolve the insular status questions.

[Text of the bill, H.R. 4442, follows:]

103D CONGRESS  
2D SESSION

# H. R. 4442

To provide consultations for the development of Articles of Relations and Self-Government for insular areas of the United States.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 17, 1994

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To provide consultations for the development of Articles of Relations and Self-Government for insular areas of the United States.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. FINDINGS.**

4       (a) FINDINGS.—The Congress finds that:

5               (1) The United States of America has long been  
6       committed to making it possible for all peoples to ex-  
7       ercise their inherent rights of self-government.

8               (2) While the nearly four million citizens of the  
9       insular areas of the United States of America are  
10      United States citizens (or, in the case of American



1 Samoa, United States nationals) and have achieved  
2 local self-government, they do not fully participate in  
3 the Federal decisionmaking process although they  
4 are subject to Federal laws, rules, and regulations.

5 **SEC. 2. PURPOSE.**

6 The purpose of this Act is to provide a process where-  
7 by the citizens of United States insular areas can achieve  
8 a full measure of self-government through political inte-  
9 gration into the United States or through another ar-  
10 rangement with the United States.

11 **SEC. 3. ARTICLES OF RELATIONS AND SELF-GOVERNMENT.**

12 (a) **GENERAL AUTHORIZATION.**—Before December  
13 31, 1998, the President and the government of an insular  
14 area may develop, and submit to the Congress, proposed  
15 measures to enable the citizens of the insular area to exer-  
16 cise greater powers of self-government or greater partici-  
17 pation in the Federal system.

18 (b) **APPOINTMENT OF UNITED STATES REPRESENT-**  
19 **ATIVE.**—At the request of the government of an insular  
20 area transmitted not later than December 31, 1997, the  
21 President shall designate a personal representative to con-  
22 sult and develop in good faith with representatives des-  
23 igned by the government of the area, Articles of Rela-  
24 tions and Self-Government.

1       (c) SUBMISSION DEADLINE.—The proposed Articles  
2 and a report on the consultations shall be submitted to  
3 the Congress within one year after the appointment of a  
4 representative under subsection (b).

5       (d) RATIFICATION.—Upon enactment of a resolution  
6 approving the proposed Articles, the legislation shall be  
7 submitted to the citizens of the insular area in a plebiscite  
8 organized by the government of the insular area and shall  
9 take effect in accordance with the terms of such resolution  
10 if ratified by a majority vote in that plebiscite.

11       (e) INSULAR AREA DEFINED.—For the purpose of  
12 this Act, the term “insular area” includes American  
13 Samoa, Guam, the Commonwealth of the Northern Mari-  
14 ana Islands, the Commonwealth of Puerto Rico, and the  
15 Virgin Islands.

16 **SEC. 4. GENERAL INSULAR AREAS PROCESSES.**

17       The process for developing the status of insular areas  
18 provided for by this Act shall be in addition to any other  
19 process for addressing issues in the relationship between  
20 the United States and an insular area established by or  
21 initiated pursuant to any other Federal or insular area  
22 Act and enactment of this Act is not intended to prevent  
23 or limit such efforts.



Mr. DE LUGO. Now, let us get to the people that we are here to hear from. First of all, let me recognize the gentleman who is the author of this bill, my good friend from Alaska, Don Young.

### STATEMENT OF HON. DON YOUNG

Mr. YOUNG. Thank you, Mr. Chairman. I want to thank you, Mr. de Lugo for scheduling this hearing on my legislation or our legislation. I want to at this time applaud your service to the Congress and to your territory which you represent. We are going to miss you dearly as you leave and go to greater and kinder things other than Congress, but you have done a yeoman's work with this committee over the years that I have been serving here.

We both have links to territories. Yours of course is apparent as you represent the Virgin Islands. Mine is based on representing Alaska which had been a territory less than 15 years prior to my election to Congress and serving on this committee. As you recall, when I began serving on this committee, you and I both, the name of the committee was Committee on Interior and Insular Affairs.

Although reference to the territories or insular areas have been eliminated from the name of the committee, I take seriously the constitutional responsibility of the Congress for the territories of the United States.

The Constitution states in Article IV that it is the Legislative Branch, not the Executive or the Judicial branches, which is to resolve matters involving property and territories of the United States. According to the rules of the House of Representatives, the primary jurisdiction over territories rests with this committee.

Any legislation affecting the territories is referred to this committee. If there are problems or issues involving the territories, this is where the House will exercise its primary oversight responsibilities. We can't hand off the territories' problems to someone else; in plain language, the buck stops in this committee.

Since coming to Congress, I have found legislation dealing with the status of the territories or the trust territories to be extremely profound. Some matters have been quite controversial, like the Compact of Free Association, in which the people of Micronesia chose separate sovereignty from the United States as freely associated states.

Others have represented milestones in the development of self-government in the territories such as bringing the Northern Mariana Islands within the sovereignty of the United States with the bestowal of U.S. citizenship, and the granting of a delegate to American Samoa.

What has been apparent during the past two decades is the need for a federally-defined process for territories to seek full-citizenship rights. The old way of statehood is not politically viable for smaller territories. Even state-sized Puerto Rico is going to have a difficult time leaping from unincorporated status to statehood without going through the same process of incorporation that former territories like Alaska and Hawaii experienced.

The Government Accounting Office responded to my inquiry regarding the applicability of the United States Constitution to the territories with a report in June 1991, *U.S. Insular Areas Applicability of Relevant Provisions of the U.S. Constitution*. The GAO con-

cluded the Constitution has not been extended in full to any of the territories, and furthermore, it varies amongst the territories.

I introduced H.R. 3715 last year to provide a process for territories of the United States to seek incorporation and full-citizenship rights. This was after reviewing the outcome of the Puerto Rico plebiscite in which 95 percent of the people of Puerto Rico voted for permanent union with the United States, irrevocable American citizenship, and full Federal benefits. Although the vote was split between commonwealth with 48.4 and statehood with 46.2, the ballot definitions of both options clearly included the above three identical elements.

As these were the primary and salient elements of a status change voted for by the people of Puerto Rico, it was clear that what the people were seeking was essentially a fourth status option not on the ballot. Other than statehood, the only way to achieve what a super-majority of the people of Puerto Rico want is to be politically integrated with the United States.

My legislation, whether referring to H.R. 3715 or H.R. 4442, would permit the territory of Puerto Rico or any of the smaller territories to be politically and economically empowered with the United States. A mechanism has been defined whereby at the option of a territory, the President would be requested to enter into consultations with the territory for the development of the Articles of Relations and Self-Government. This would be for political integration for those seeking to remain under U.S. sovereignty or another arrangement for those seeking independence or free association. Although I expanded the scope of the options in H.R. 4442 from those in H.R. 3715, I expect that any new change in the status would be consistent with the United Nations' definitions for decolonization.

At the request of an insular area government and not later than December 31 of 1997, the President would designate a personal representative to consult and develop with representatives designated by the government of the insular area, Articles of Relations and Self-Government.

The proposed articles and a report on the consultations would be forwarded to the Congress within one year after the appointment of the United States representative. These proposed measures would be submitted to Congress no later than December 31, 1998, to provide time for the Congress to enact implementing legislation before the end of the decade, which has been named the Decade for the Eradication of Colonization" by the United Nations.

The United Nations guidelines for decolonization are reflected in the legislation through time frames and deadlines in order to meet the U.N. decolonization goal by the year 2000. The 12-month limit is meant to spur consultations on the new relationship rather than languishing inconclusively.

The Northern Mariana Islands Section 902 of the Covenant discussions were initiated in 1987 and have yet to conclude. Recommendations forwarded by the President and in the insular areas before 1999 would still give Congress time to act before the end of the decade.

Mr. Chairman, I suggest respectfully that I will not finish the rest of my statement because it is quite long. The intent of this

hearing today is to make sure that American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, all of these territories, have an opportunity to apply for the status of which they seek.

One thing I want to stress, Mr. Chairman: Any legislation, any decision that will be made for the territories, will have to come through this committee. I want everybody to understand that perfectly clearly, as I have said in the opening part of my statement.

It is my intent, Mr. Chairman, after visiting every one of these areas other than yours, to provide an avenue for political and economic empowerment in the territories. I think it is time for these 4 million people, the people that are related to the United States as U.S. citizens, to have full, equal status. This is the intent of this bill: To bring those people interested in trying to obtain equality to be before this committee. I hope we can move forward with legislation to seek the decolonization of these territories. Really, they are a part of the United States and I hope they do want to be an integral part of the United States.

Thank you, Mr. Chairman.

Mr. DE LUGO. Thank you. I thank the gentleman from Alaska for his remarks. Would you like the entire statement in the record?

Mr. YOUNG. Yes.

Mr. DE LUGO. Without objection, your entire statement will be placed in the record.

[Prepared statement of Mr. Young follows:]

Statement of  
THE HONORABLE DON YOUNG

Committee on Natural Resources  
Subcommittee on Insular and International Affairs

Subcommittee Hearing on H.R. 4442  
Development of Articles of Relations and Self-Government  
for Insular Areas of the United States

May 24, 1994

Mr. Chairman:

I want to thank Chairman de Lugo for scheduling a hearing on my legislation. We both have links to the territories. Mr. de Lugo's is apparent, as he represents the Virgin Islands. Mine is based on representing Alaska, which had been a territory less than 15 years prior to my election to Congress, and serving on this Committee. As you will recall, when I began serving on this Committee in 1973, the name of the Committee was the Committee on Interior and Insular Affairs. Although reference to the territories or insular areas has been eliminated from the name of the Committee, I take seriously the Constitutional responsibility of the Congress for territories of the United States.

The Constitution states in Article IV that it is the Legislative Branch, not the Executive or the Judicial Branches, which is to resolve matters involving property and territory of the United States. According to the Rules of the House of Representatives, the primary jurisdiction over territories rests with this Committee. Any legislation affecting the territories is referred to this Committee. If there are problems or issues involving the territories, this is where the House will exercise its primary oversight responsibilities. We can't hand off the territories' problems to someone else; in plain language, "the buck stops here!"

Since coming to Congress, I have found legislation dealing with the status of the territories or the Trust Territories to be extremely profound. Some matters have been quite controversial like the Compact of Free Association, in which the people of Micronesia chose separate sovereignty from the United States as freely associated states. Others have represented milestones in the development of self-government in the territories, such as bringing the Northern Mariana Islands within the sovereignty of the United States with the bestowal of U.S. citizenship, and the granting of a delegate to American Samoa.

What has been apparent, during the past two decades, is the need for a federally defined process for the territories to seek full citizenship rights. The old way of statehood is not politically viable for the smaller territories. Even State-sized Puerto Rico is going to have a difficult time leaping from unincorporated status to statehood without going through the same process of incorporation that former territories like Alaska and Hawaii experienced.



The Government Accounting Office responded to my inquiry regarding the applicability of the U.S. Constitution to the territories with a report in June 1991, U.S. Insular Areas: Applicability of Relevant Provisions of the U.S. Constitution. The GAO concluded the Constitution has not been extended in full to any of the territories and, furthermore, its applicability varies among the territories.

I introduced H.R.3715 last year to provide a process for territories of the United States to seek incorporation and full citizenship rights. This was after reviewing the outcome of the Puerto Rico plebescite, in which 95% of the people of Puerto Rico voted for permanent union with the United States, irrevocable American Citizenship, and full federal benefits. Although that vote was split between Commonwealth with 48.4% and Statehood with 46.2%, the ballot definitions of both options clearly included the above three identical elements.

As these were the primary and salient elements of a status change voted for by the people of Puerto Rico, it was clear that what the people were seeking was essentially a fourth status option not on the ballot. Other than Statehood, the only way to achieve what a super majority of the people of Puerto Rico want is to be politically integrated with the United States.

My legislation, whether referring to H.R.3715 or H.R.4442, would permit the territory of Puerto Rico or any of the smaller territories to be politically and economically empowered with the United States. A mechanism has been defined whereby at the option of a territory, the President would be requested to enter into consultations with the territory for the development of Articles of Relations and Self-Government. This would be for political integration for those seeking to remain under U.S. sovereignty, or another arrangement for those seeking independence or free association. Although I expanded the scope of the options in H.R.4442 from those in H.R.3715, I expect that any new change in status would be consistent with the United Nations' definitions for decolonization.

At the request of an insular area government, and not later than December 31, 1997, the President would designate a personal representative to consult and develop, with representatives designated by the government of the insular area, Articles of Relations and Self-Government. The proposed Articles and a report on the consultations would be forwarded to the Congress within one year after the appointment of the United States Representative. These proposed measures would be submitted to Congress no later than December 31, 1998, to provide time for the Congress to enact implementing legislation before the end of the decade, which has been named the "Decade for the Eradication of Colonialism" by the United Nations.

The United Nations guidelines for decolonization are reflected in the legislation through time frames and deadlines in order to meet the U.N. decolonization goal by the year 2000. The 12 month limit is meant to spur consultations on the new relationship, rather than languishing inconclusively. The Northern Mariana Islands Section 902 of the Covenant discussions were initiated in 1987 and have yet to conclude. Recommendations forwarded

by the President and the insular areas before 1999 would still give Congress time to act before the end of the decade.

Upon enactment by the Congress of a resolution approving the proposed Articles, the legislation would be submitted to the citizens of the territory in a plebiscite. The question to approve the resolution would be organized by the government of the territory and would take effect in accordance with the terms of the resolution upon ratification by a majority vote in the territorial plebiscite.

The United States territories included in the legislation are American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands. These United States flag territories are identical to those named in H.R. 3715. I want to be emphatically clear that, even though a U.S. political entity other than a state uses the name "Commonwealth" to describe itself, it is legally a territory. The Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands are organized, unincorporated territories of the United States.

The last section of H.R. 4442, General Insular Area Processes, clarifies that the process for developing the status of insular areas provided for by this legislation is meant to be in addition to any other process for addressing issues in relationship between the United States and an insular area. A number of the insular areas have Federal or insular area acts which relate to addressing issues in the U.S.-insular relationship. The enactment of this legislation is not meant to prevent or limit any of these efforts. Consistent with the principle of self-determination, the process is optional on the part of each territory.

With nearly four million United States citizens living in U.S. flag areas without the full extension of the United States Constitution, I feel strongly that it is necessary to provide a clear process agreed to by Congress and the President for our fellow citizens to achieve a full measure of self-government through political integration with the U.S. or another arrangement for self-government. The time constraints of the proposed process, the deadlines and one year negotiating requirement, are necessary to insure real measurable progress in such matters of fundamental importance to the citizens of the territories and the United States.

It is important that those seeking a change realize they cannot enjoy the economic benefits of residing under the U.S. flag without assuming equal economic responsibilities. At some point the people of the territories are going to have to start paying taxes. This is a stark reality of the post-coldwar era. As Congress is faced with the mounting pressure of the deficit and a need to balance the budget, there will be a tendency to look for alternatives to fund the cost of continuing benefits and programs to the territories. The consultation mechanism of the legislation before the Subcommittee would permit a rational development of the extension of economic benefits and responsibilities, instead of possible sudden changes in law.

Let me reiterate the importance of the ratification section of H.R. 4442, which was added to clarify in law what is intended for H.R.3715. Even after the consultation to develop Articles and subsequent Congressional action, the people of a territory would be given the opportunity to ratify the new status in a referendum organized according to territorial law prior to implementation. Self-determination of the people of the territories is an integral part of any successful relationship which is to be to the mutual benefit of the territory and the United States.

It is of paramount importance for this Country to provide a timely and legitimate process for the territories to attain full self-government and political empowerment whether within or without the sovereignty of the United States. I urge my colleagues to seriously consider acting upon this legislation to fulfill our Constitutional responsibilities and Committee jurisdiction for the territories.



Mr. DE LUGO. Let me say that I am convinced in my conversations that I have had with the gentleman from Alaska that his efforts on this legislation are extremely sincere attempts to address the very real issues that we have in the insular areas.

I think of particular note are the words that he placed in the letter to me, quote, "There has been a void in leadership from the Executive Branch. It is up to the Congress to devise an enlightened process. This is not prejudicial and mutually exclusive of any other efforts to address status," unquote.

Let me also say that this bill is status neutral. It does not give advantage to any option over another, nor does it presume that any area's status is clearly colonial, only that the areas do not participate adequately in national governance.

Now at this time, let me recognize the distinguished resident commissioner from Puerto Rico, former governor of Puerto Rico and my friend, Carlos Romero-Barceló

### STATEMENT OF HON. CARLOS ROMERO-BARCELÓ

Mr. ROMERO-BARCELÓ. Thank you.

Thank you, Mr. Chairman. I do want to thank you for having scheduled this hearing and giving us an opportunity to tackle the issue of the status of Puerto Rico and the other territories.

I was very disappointed when the other hearings having to do with the results of the plebiscite were postponed indefinitely. I think that today we will have an opportunity to address some of the issues that we would have addressed in those hearings.

And we meet today to begin the consideration of H.R. 4442 and H.R. 3715, bills introduced by our colleague from Alaska, Mr. Young, that seek to provide for consultations for the development of Articles of Relations and Self-Government for the insular areas of the United States.

I have had the opportunity to analyze both the original H.R. 3715 and H.R. 4442, and although I do not agree with all of the provisions included, particularly in the revised version, I believe that the proposal raises some very important and interesting points that merit this subcommittee's careful consideration, and not only the subcommittee's careful consideration, but the Congress' careful consideration and the President's careful consideration.

Mr. Young's timing for introducing this legislation could not have been better. As expressed in the original bill, H.R. 3715, the United Nations General Assembly has declared the 1990s to be the "International Decade for the Eradication of Colonialism." Yet we are already almost halfway through the decade and the United States still remains as one of the only nations in the world which continues to have colonies. In fact, it has the world's largest colony, Puerto Rico, which is the only colony that I know of over 1 million inhabitants.

Colonialism entails the existence of clearly identifiable groups of people whose economic, social, and political affairs are to a great degree controlled and influenced by a government over which it exercises no control or in which it does not participate.

The basic traits of this system are: one, an absence of consent of the government; two, an inferior political status whereby the people subject to the colonial rule are denied the necessary tools to

participate in the day-to-day decision-making process of the Nation; three, the discriminatory treatment accorded to the residents of the territory; and four, its inherent contradiction with the fundamental American principles of liberty, equality, and self-determination.

In the specific case of Puerto Rico and its 3.6 million American citizens, all of the aforementioned traits and conditions have clearly existed and continue to exist today.

A case in favor of the current colonial status in the island could have been made, however, from 1952 to 1993 based on the proposition that, if a majority of Puerto Ricans themselves continue to support the colonial relationship or so-called commonwealth, it must be that the majority acquiesced to colonial rule and to the inherent inequalities that result therefrom despite their status as American citizens.

That assumption can no longer be made. The results of last year's status plebiscite in the island clearly demonstrate that, for the first time since the naming of the colonial relationship as a commonwealth in 1952, political relationship today does not enjoy the support of a majority of Puerto Ricans.

Thus last November 14, 1993, the United States lost the consent of the government in its current exercise of sovereignty and is once again exercising this power by sole virtue of the Treaty of Paris which in itself was the result of the right of conquest.

Furthermore, I strongly believe that the issue should be analyzed by us, first of all, from the point of view of what being an American citizen actually means. The notion that the concept of citizenship largely defines the relationship between the individual and the State is a traditional principle of political theory whose origin can be traced back to ancient Greece and whose relevance is still accepted by modern political theorists.

The corollary to this principle is perplexingly simple: It is by virtue of his citizenship that the individual is a member of the political community, and by virtue of it that, he has rights and responsibilities.

And yet, this simple concept of citizenship becomes obscure and contradictory in the case of Puerto Rico. Here you have 3.6 million American citizens whose lives and well-being are subject to the sovereignty and plenary powers of the United States Congress where they lack full representation; who are without the right to vote for the Nation's President who has the power to send their sons and daughters to fight and die in times of war; and who are subject to the inherent inequalities and discriminatory treatment that surface from the current colonial establishment.

The piece of legislation before us today seeks to partially correct this situation by establishing a process that could be used to increase self-government in all the United States' insular areas.

I fully understand what my good friend from Alaska is trying to achieve with this bill and agree with him in principle, but let me also suggest that the original version of his legislation would have been much more effective towards achieving the goals of equality and full participation for the residents of the United States' insular areas than the legislation before us today.

I am specifically concerned with the statement of H.R. 4442 particularly where it states that the citizens of U.S. insular areas can

achieve a full measure of self-government through political integration into the United States or through another arrangement with the United States.

I would hope that by doing this we are not once again leaving the door open for the continued existence of the current colonial status in Puerto Rico. I would suggest that this specific language requires some clarification and further analysis.

And let me finish my initial statement by expressing my wholehearted welcome to the distinguished panel of participants before us today, and I look forward to your testimony with great interest.

Thank you.

Mr. DE LUGO. I thank the gentleman from Puerto Rico for those statements, and now let me recognize the gentleman from California, a valued member of this subcommittee.

#### STATEMENT OF HON. ELTON GALLEGLY

Mr. GALLEGLY. Thank you very much, Mr. Chairman. In the interests of time, I would just like to say that I very much support the initiative of Mr. Young.

I believe it is a constructive approach toward resolving our constitutional responsibilities of disposing rules and regulations respecting territory and property of the United States. And in the interests of time, I would like to submit the balance of my testimony for the record.

[Prepared statement of Mr. Gallegly follows:]

Statement of  
THE HONORABLE ELTON GALLEGLY

Committee on Natural Resources  
Subcommittee on Insular and International Affairs

Subcommittee Hearing on H.R. 4442  
Development of Articles of Relations and Self-Government  
for Insular Areas of the United States

May 24, 1994

Mr. Chairman:

It is a pleasure to join this Subcommittee hearing on legislation by the senior Member of the Committee on Natural Resources, my good friend from Alaska, Don Young. I believe Mr. Young's initiative is a constructive approach toward resolving our Constitutional responsibilities of disposing and making rules and regulations respecting territory and property of the United States.

I supported Mr. Young's original legislation, H.R. 3715, Articles of Incorporation, for its clearly focused goal of providing a process for citizens in the territories to seek equal political and economic citizenship by incorporation with the United States. Incorporation or political integration with the United States, as used in H.R. 4442, seems to be a logical sequence of evolution for the nearly four million U.S. citizens in the territories, including the U.S. Nationals of American Samoa. Self-government and closer relationships with the U.S. have developed progressively in the various territories during the past five decades. However, the territories still remain outside the full applicability of the U.S. Constitution. The Young legislation provides a new avenue for political empowerment which is unprecedented and should be seriously considered by Congress and the residents of the territories.

I support the mechanism in both H.R. 3715 and H.R. 4442 which provides a discrete time frame for a territory to seek the development of a change in relationship with the United States. The other strong feature of H.R. 3715 is the clear signal for full self-government through the full extension of the U.S. Constitution and political empowerment. As indicated earlier, this is the next logical step for U.S. citizens or U.S. nationals to gain economic and political equality within the sphere of American sovereignty.

The addition of other status options in H.R. 4442 reflects a balanced posture and treatment for those territories who would seek another arrangement with the United States. Full self-government outside of U.S. sovereignty is consistent with international decolonization definitions and merits consideration by those territories that do not ultimately seek a permanent union with the United States.



The ongoing budget deficit has caused the Congress to closely examine nearly every program and to justify its continuance. Territorial-related programs and benefits are certainly not exempt from this process. The House of Representatives voted to end multi-year special grant assistance to the Northern Mariana Islands with legislative language identical to H.R. 1622, which I introduced last year. The Possessions Tax Credit or Section 936 of the Internal Revenue Code was sharply revised by Congress last year to reduce the multi-billion dollar tax credit to corporations with businesses in the territories, primarily Puerto Rico. The termination of the Office of Territorial and International Affairs will be scrutinized by this Subcommittee in a hearing set for June 16.

I want to thank Chairman de Lugo for calling for this upcoming hearing on H.R. 3797, The Territorial Administration Cessation Act. It is a credit to his leadership that he is providing the opportunity to examine the need for the continued funding of the territorial office which is under the purview of this Subcommittee.

I raise these examples to underscore the intensity with which all funding is being scrutinized in the Congress. Undoubtedly federal funds to the territories are being looked at carefully. The lack of full federal taxation and other special tax and trade provisions for the territories will be a greater factor in the deficit debate in the future. One of the strongest features of the Young legislation, as I mentioned earlier, is providing for equal political and economic U.S. citizenship through political integration.

The United States, and the Congress in particular, has an obligation and a responsibility to provide for the development of full self-government in the territories. I believe H.R. 3715 establishes such a process, and so does H.R. 4442 as long as the decolonization guidelines referenced in H.R. 3715 are used in the development of full self-government outside the sovereignty of the United States.

I want to again commend my colleague, Don Young, for his initiative in addressing what many believe to be the most important matter within the jurisdiction of the Committee on Natural Resources: the self-determination and political empowerment of nearly four million U.S. citizens. I look forward to hearing Mr. Young's statement and those of the many others here to share their views.

Mr. DE LUGO. Let me recognize the gentleman from American Samoa.

# STATEMENT OF HON. ENI F.H. FALEOMAVAEGA

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I, too, would like to submit my statement for the record, Mr. Chairman. And in the interests of time, I am basically just going to summarize my statement.

Mr. Chairman, thank you for the opportunity to present my statement on H.R. 4442, a bill to provide for the development of Articles of Incorporation for territories of the United States.

I certainly would like to commend my good friend and colleague from Alaska, Congressman Young, for introducing this bill which will give us the opportunity to take a close look at the current relationship between the United States and its five insular areas which includes the Commonwealth of the Northern Mariana Islands, Puerto Rico, the territories of American Samoa, Guam, and the Virgin Islands.

The stated purpose of the bill, Mr. Chairman, is to provide for a process of consultation with the United States Government that will enable the people of any U.S. territory to become self-governing with constitutional rights and responsibilities equal to those of citizens in the United States.

Mr. Chairman, I understand and appreciate the desire of some to formulate a cohesive single policy in dealing with the territories. However, it has long been recognized that while we share the common experience of being U.S. territories, we have little else in common.

We come from widely different cultures and in most cases speak different native languages. I am confident that representatives from the various commonwealths and territories will eloquently state the case for their respective constituencies, thus I will mostly confine my remarks to the relationship between the United States and the territory of American Samoa.

American Samoa, a group of Polynesian islands in the South Pacific, is virtually the only land south of the equator under the U.S. flag. Ceded to the United States by the chiefs of the islands of Tutuila and Aunu'u in 1900, and by the chiefs of the Manu'a islands group in 1904, it remains the only U.S. territory that is both unincorporated and unorganized.

It is unincorporated because the U.S. Constitution applies only in part, that is, only insofar as determined by the U.S. Congress and courts. It is unorganized because today we remain the only territory of the United States not governed by an organic act. Congress has yet to officially organize a government for the separate island kingdoms of Tutuila and Manu'a.

Unlike other insular territories, American Samoa was never annexed by the United States as a result of war or conquest. In ceding their islands to the United States, the chiefs of Tutuila, Aunu'u, and Manu'a understood that their native lands, customs, and traditions would be honored and protected.

The idea of providing a framework for the political development of insular areas has considerable merit. Examples of the problems under the current system are many. Currently, we have U.S. citi-

zens and U.S. nationals residing in U.S. territories who are truly treated as second-class citizens. They cannot vote for the President of the United States, but for the most part have the duties typically associated with citizenship including being drafted into military or other government service. They are subject to taxation by the Federal Government, but have no voting representation in the Congress.

And while the various types of territories have served the United States well over the past two centuries, the current structure is showing its limitations. Current examples of this are Puerto Rico and Guam.

Mr. Chairman, I wish to note parenthetically, however, that within the States of the United States, there exist Indian tribal lands, Hawaiian homelands and tribal governments which have been found not inconsistent with the U.S. Constitution. If American Indians and Native Hawaiians can have these governmental structures, perhaps American Samoa can do the same thing.

Mr. Chairman, I share the concerns of my good friend from Alaska who noted that a void has existed in the development of an alternative mechanism towards full self-government and equality of constitutional rights of its citizens in U.S. territories. It is my hope that the Federal Government will begin to seriously address this issue.

Again, I would like to commend my good friend from Alaska for introducing this bill and you, Mr. Chairman, for your leadership and for holding this hearing this morning. And I certainly offer my personal welcome to all the witnesses who will testify later this morning.

Thank you, Mr. Chairman.

Mr. DE LUGO. I thank the gentleman from American Samoa, Congressman Faleomavaega.

[Prepared statement of Mr. Faleomavaega follows:]



STATEMENT OF  
THE HONORABLE ENI F.H. FALEOMAVAEGA  
MEMBER OF CONGRESS

before the

COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON INSULAR & INTERNATIONAL AFFAIRS

on

May 24, 1994 .

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to present my statement on H.R. 4442, a bill to provide for the development of Articles of Incorporation for territories of the United States. I would like to commend Congressman Young for introducing this bill which, if nothing else, will give us the opportunity to take a close look at the current relationship between the United States and its five insular areas, which include: the Commonwealths of the Northern Mariana Islands and Puerto Rico and the territories of American Samoa, Guam, and the Virgin Islands.

The stated purpose of the bill is to provide for a process of consultation with the United States Government that will enable the people of any U.S. territory to become self-governing with constitutional rights and responsibilities equal to those of citizens in the United States.

Mr. Chairman, I understand and appreciate the desire of some to formulate a cohesive, single policy in dealing with the territories. However, it has long been recognized that while we share the common experience of being U.S. territories -- we have very little else in common. We come from widely-different cultures, and in most cases, speak different native languages.

I am confident that representatives from the various commonwealths and territories will eloquently state the case for their respective constituencies, thus I will mostly confine my remarks to the relationship between the United States and the territory of American Samoa.

Hon. Eni Faleomavaega  
 May 24, 1994  
 H.R. 4442

In order to understand the current relationship between American Samoa and the United States -- and possibly, define the parameters of our future relationship -- it is important to examine the foundation upon which this relationship is based.

American Samoa, a group of Polynesian islands in the South Pacific, is virtually the only land south of the equator under the U.S. flag. Ceded to the United States by the chiefs of the islands of Tutuila and Aunu'u in 1900, and by the chiefs of the Manu'a islands group in 1904, it remains the only U.S. territory that is both unincorporated and unorganized. It is unincorporated because the U.S. Constitution applies only in part, that is, only insofar as determined by the U.S. Congress and courts. It is unorganized because today, we remain the only territory of the United States not governed by an Organic Act -- Congress has yet to officially organize a government for the separate island kingdoms of Tutuila and Manu'a.

Unlike other insular territories, American Samoa was never annexed by the United States as a result of war or conquest. In ceding their islands to the United States, the chiefs of Tutuila, Aunu'u and Manu'a understood that their native lands, customs and traditions would be honored and protected.

Congress did not ratify the 1900 and 1904 deeds of cession until 1929 and immediately thereafter delegated its constitutional authority to administer the territory to the President, who then transferred the administration of American Samoa to the Secretary of the Navy. In 1951, the President transferred the administration of American Samoa to the Secretary of the Interior who, to this day, has oversight responsibilities over all U.S. territories, except Puerto Rico.

Mr. Chairman, the Treaties of Cession of 1900 and 1904 still stand as the foundation upon which American Samoa can claim a political relationship with the United States. Although the English version of these "treaties" are referred to as instruments of "cession," the Samoan version of the Manu'a act of cession contains the word "feagaiga" three times. The Samoan term "feagaiga" means "an established relationship between different parties," or "an agreement, covenant."

Hon. Eni Faleomavaega  
 May 24, 1994  
 H.R. 4442

The American drafters of the Manu'a act of cession may have found it difficult to express "legal instrument" in Samoan and therefore fell back upon "feagaiga," designating an agreement or covenant. Read expansively, this supports American Samoa's contention that the acts should be construed as obligations, read narrowly, it does so only for Manu'a (Edward J. Michal 1992, 145). Although we have pretended for the past ninety-four years that Tutuila and Manu'a islands are united, nowhere do we find under the terms of the two treaties a political union in existence between the two island groups.

The distinction between "deed of cession" and "treaty" is of vital importance to the political development of American Samoa. A "deed of cession" implies the United States may impose its will freely without consultation or consent. A "treaty," however, requires the consent of both the United States and the two "distinct" island groups of Tutuila and Manu'a. Currently, these "treaties" are not listed in the United States Department of State publication "Treaties in Force," and in fact the Department of State does not consider these documents to be "treaties" or any other form of international agreement.

Mr. Chairman, the people of American Samoa have reassessed their political status a number of times since 1900. They have considered becoming an organized territory; joining Hawaii as one of its counties; and becoming a U.S. commonwealth, as did Puerto Rico and, more recently, the Northern Mariana Islands. Two American Samoan commissions concluded in the 1970s, however, that the risks to Samoan cultural identity outweighed the benefits of becoming more closely integrated.

I believe it is time, Mr. Chairman, for the people of Tutuila and Manu'a to take another look at its political status and determine if it is satisfied with this current, ill-defined political relationship.

It is for this reason that I introduced a bill to create a federal study commission comprised of both local and federal officials to study and evaluate the factors which led to American Samoa's historical and present political relationship with the United States. It would also study and evaluate the impact American Samoa's political relationship with the United States has had on the economic and social needs of the residents of American

Hon. Eni Faleomavaega  
 May 24, 1994  
 H.R. 4442

Samoa. Finally, my bill would require the commission to prepare a draft report which would include all written comments received from the public at large.

The proposed federal study commission would differ from past local political study commissions in that it would require the participation of both the United States and American Samoa. Mr. Chairman, we cannot discuss the future of a political marriage without the participation and consent of both parties.

Congressman Young's bill, H.R. 4442, which as I mentioned earlier, provides a process by which territories and commonwealths can become incorporated into the United States or pursue other relationships with the United States. To the best of my knowledge, this approach has not been formally suggested before.

The idea of providing a framework for the political development of insular areas has considerable merit. Examples of problems under the current system are many. Currently, we have U.S. citizens and U.S. nationals residing in the U.S. territories who are truly treated as second-class citizens. They cannot vote for president of the United States, yet for the most part are subject to the duties typically associated with citizenship, including being drafted into military or other government service. They are subject to taxation by the federal government, but have no voting representation in the Congress, the branch which determines who pays taxes. And while the various types of territories have served the United States well over the past two centuries, the current structure is showing its limitations. Current examples of this are Puerto Rico and Guam.

On the other hand, the process set forth in Congressman Young's bill may not be the best course for all the insular areas. For example, as long as American Samoans wish to retain their cultural identity, including our communal land and chiefly titles -- which I believe we should retain -- further incorporation into the United States may not be practical.<sup>1</sup>

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<sup>1</sup>I wish to note parenthetically, however, that within the states of the United States there exist Indian tribal lands, Hawaiian homelands, and tribal governments, which have been found not inconsistent with the U.S. constitution.

Hon. Eni Faleomavaega  
May 24, 1994  
H.R. 4442

It is my understanding that members of Puerto Rico's Popular Democratic Party will testify in opposition to H.R. 4442 today on the ground that under Puerto Rico's unique circumstances, the representatives picked by the local government will probably not negotiate toward the new political relationship voted for by a plurality of the voters in the most recent plebiscite. This is another point which should be addressed.

As I said at the beginning of this statement, H.R. 4442 raises some very interesting questions. I do not claim to have all the answers to these questions, but I hope to move toward some answers as we hear the testimony of today's witnesses.

Mr. Chairman, I share the concerns of my good friend from Alaska, who noted that a "void has existed in the development of an alternative mechanism towards full self-government and equality of constitutional rights of the citizens in the U.S. territories," and it is my hope the federal government will begin to seriously address this issue.

Again, I would like to commend Congressman Young for introducing this bill, and you Chairman de Lugo for showing the leadership in holding this hearing.

Thank you very much.

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If American Indians and Native Hawaiians can have these governmental structures within the United States, perhaps American Samoa can, too.



Mr. DE LUGO. Let me recognize the gentleman from Guam who is one of the most valued members of this subcommittee and has helped me on a number of issues. It is rare that when a new member comes, he is able to contribute as much as Bob Underwood has. In fact, I have never seen a Representative win such broad acceptance and praise as Congressman Underwood who is now the vice-chairman of the Asian Pacific Caucus. Let me commend you on that.

#### STATEMENT OF HON. ROBERT A. UNDERWOOD

Mr. UNDERWOOD. Thank you, Mr. Chairman. I hope I don't lose my membership on the Hispanic Caucus.

Thank you for those kind words, Mr. Chairman. Nothing is more important to the insular areas at this juncture in our histories than the breaking down of the barriers regarding Federal territorial relationships. Basically all of the insular areas are stuck in the unincorporated-incorporated territorial status division and most of us end up stuck in the halls of the Department of the Interior when we attempt to deal with the Federal bureaucracy's impact on our lives.

We need to break new ground. We need to push the envelope. We need to move to another level which does more than rearrange the furniture, which does more than restate platitudes about cooperation and coordination and facilitation and which allows territories to develop new, unique and balanced relationships with the Federal Government.

Some areas like Puerto Rico and Guam have already outlined for themselves the approach they wish to use, but even they run into the barriers of thought which continue to deal with territories as appendages, as the unfortunate reminders of an imperial past which continues to the present colonial reality.

I congratulate our colleague and friend and fellow ex-territorial citizen, Mr. Don Young, for making the effort to break down these barriers and to move to a new plateau. It is clear that legislation of this nature is necessary if we are to break down the barriers which impede the changing of our colonial status, and of course I congratulate Chairman de Lugo for holding this hearing today on H.R. 4442.

I am supportive of their efforts to address the political status issues, and I am most appreciative of the dialogue that has developed with Mr. Young's staff and the subcommittee staff to work out the issues of concern to Guam.

I am pleased with this ongoing dialogue and that Mr. Young has welcomed our input and our suggestions for amendments to this bill to resolve our concerns.

I believe that this bill and this hearing today is helpful in focusing attention on the status issue. At this point, any attention at all on the insular areas is helpful in reminding the United States Government of its obligations under the United Nations charter.

One of the troubling aspects of Guam's efforts to achieve self-determination has been the lack of attention and commitment by past Administrations to resolving these status issues.

Other issues have emerged of late in this policy vacuum such as whether or not the functions of the Department of the Interior have

been overcome by the political development of the territories. The core issue is not how outdated the Department of the Interior has become, it is how outdated the political relationship has become.

The Federal Government should wake up and smell the coffee. The territories are colonies, and the colonial structure is at best an embarrassment and at worst an illegal relationship by today's international standards.

As I mentioned earlier, Guam has embarked on its chosen course to achieve a new commonwealth status in a process endorsed by the people of Guam through plebiscites. The Guam Commission on Self-Determination has been engaged in meetings with the representative of the Clinton administration, Mr. Michael Heyman, to review the progress already made and to address the remaining issues of contention in the Guam Commonwealth Act.

My foremost concern therefore is to ensure that this process which we have adopted is not disrupted, distracted, or diverted by a new process. It is also important that any new initiative that Congress adopts not be cause for confusion among the territories in terms of what the congressional intent is.

Mr. Young's original bill, H.R. 3715, contemplated incorporation of insular areas that chose to embark on a defined process. The new version refers to integration and the vague offer of other arrangements. If Congress is offering alternatives to incorporation, it should clearly spell out its intent and communicate what those other arrangements might be.

To this end, it may be necessary to amend H.R. 4442 with clarifying language to address issues that affect those territories such as Guam that are already actively engaged in a process to improve their political status.

Mr. Chairman, I also want to clearly state my position about the question of self-determination. If any bill is to address Guam's political status, it must address Guam's inherent right to self-determination for the indigenous Chamorro people.

I would urge this committee to express its clear and unequivocal recognition of this right. The reference to self-government in H.R. 4442 is not synonymous with self-determination, although there is some conceptual overlap and this distinction should not be diluted.

I also have questions about the process envisioned in H.R. 4442 and how it will work. It would seem to me that the starting point for any process that seeks to change a territory's political status should be an expression of the people of that territory for change through a plebiscite.

I do want to commend the recognition in this bill that the process concludes when the people of the territory ratify the act or resolution passed by Congress. This is a very important distinction, and I highly commend Mr. Young for his inclusion of this ratification provision.

I will have some questions for the panel about how the ratification procedure should operate, and I am encouraged by the language which seems to imply that local laws would be controlling on this matter.

Finally, Mr. Chairman, I urge caution in trying to adopt a one-size-fits-all approach to political status issues. I am pleased that the general thrust of H.R. 4442 seems to be geared for the particu-



lar circumstances of each territory with no pre-ordained outcome except the general encouragement of efforts to achieve greater self-government.

What Guam seeks may not be what works for every other insular area; conversely what everyone else aspires for may not be suited for Guam's historical circumstances. The people of Guam have chosen a course, and I endorse that choice.

This committee can be helpful to our quest for commonwealth status by continuing to raise the issue of political status within the Federal Government. I hope that we do not end up clouding the issue or further delaying the process that Guam has embarked on by proposing various gyrations of unlimited power.

Above all, let's be helpful to those who have already invested a great deal of time, energy, and hope in their efforts to achieve a place in the American political system.

I wish to extend a very warm Hafa Adai to all our witnesses from Guam, the Virgin Islands, CNMI, and Puerto Rico that have joined us this morning. I look forward to your testimony on these issues.

Si Yu'os Ma'ase.

Mr. DE LUGO. Thank you very much, Congressman Underwood.  
[Prepared statement of Mr. Underwood follows:]

CONGRESSMAN ROBERT A. UNDERWOOD  
STATEMENT ON H.R. 4442  
SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS  
MAY 24, 1994

Mr. Chairman:

Nothing is more important to the insular areas at this juncture in our histories than the breaking down of barriers regarding federal-territorial relationships. Basically, all of the insular areas are stuck in the unincorporated-incorporated territorial status division and most of us end up stuck in the halls of the Department of the Interior when we attempt to deal with the federal bureaucracy's impact on our lives.

We need to break new ground, push the envelope, move to another level which does more than rearrange the furniture, which does more than restate platitudes about cooperation, coordination, facilitation and which allows territories to develop new, unique and balanced relationships with the federal government. Some areas like Puerto Rico and Guam have already outlined for themselves the approach they wish to use, but even they run into the barriers of thought which continues to deal with territories as appendages, as the unfortunate reminders of an imperial past which continues to the present colonial reality.

I congratulate our colleague and friend and fellow ex-territorial citizen, Mr. Don Young, for making the effort to break down these barriers and move to a new plateau. It is clear that legislation of this nature is necessary if we are to break down the barriers which impede the changing of our colonial status. And of course, I congratulate Chairman De Lugo for holding this hearing today on H.R. 4442.

I am supportive of their efforts to address the political status issues and am most appreciative of the dialogue that has developed with Mr. Young's staff and the subcommittee staff to work out the issues of concern to Guam. I am pleased with this ongoing dialogue and that Mr. Young has welcomed our input and our suggestions for amendments to this bill to resolve our concerns.

I believe that this bill and this hearing today is helpful in focusing attention on the status issue. At this point, any attention at all on the insular areas is helpful in reminding the United States government of its obligations under the United Nations charter. One of the troubling aspects of Guam's efforts to achieve self-government has been the lack of attention and commitment by past administrations to resolving these status issues.

Other issues have emerged of late in this policy vacuum, such as whether or not the functions of the Department of the Interior have been overcome by the political development of the territories. The core issue is not how outdated the Department of the Interior has

become, it is how outdated the political relationship has become. The federal government should wake up and smell the coffee--the territories are colonies, and the colonial structure is at best an embarrassment and at worst an illegal relationship by today's international standards.

As I mentioned earlier, Guam has embarked on its chosen course to achieve a new Commonwealth status in a process endorsed by the people of Guam through plebiscites. The Guam Commission on Self-Determination has been engaged in meetings with a representative of the Clinton administration, Mr. Michael Heyman, to review the progress already made and to address the remaining issues of contention in the Guam Commonwealth Act.

My foremost concern therefore is to ensure that the process we have adopted is not disrupted, distracted or diverted by a new process. It is also important that any new initiative that Congress adopts not be cause for confusion among the territories in terms of what the Congressional intent is. Mr. Young's original bill, H.R. 3715, contemplated incorporation of the insular areas that chose to embark on a defined process. The new version refers to integration and the vague offer of "other arrangements". If Congress is offering alternatives to incorporation, it should clearly spell out its intent and communicate what those other arrangements might be. To this end, it may be necessary to amend H.R. 4442 with clarifying language to address issues that affect those territories, such as Guam, that are already engaged in a process to improve their political status.

Mr. Chairman, I also want to clearly state my position about the question of self-determination. If any bill is to address Guam's political status, it must address Guam's inherent right to self-determination for the indigenous Chamorros. I would urge this committee to express its clear and unequivocal recognition of this right. The reference to self-government in H.R. 4442 is not synonymous with self-determination, and this distinction should not be diluted. Therefore, the recognition of this right by the United Nations, and by the United States as a signatory to the U.N. charter, should be stated to ensure that the United States government will honor its international obligations.

I also have questions about how the process envisioned in H.R. 4442 will work. It would seem to me that the starting point for any process that seeks to change a territory's political status should be an expression of the people of that territory for change through a plebiscite. I do want to commend the recognition in this bill that the process concludes when the people of territory ratify the Act or resolution passed by Congress. This is an important distinction and I commend Mr. Young for his inclusion of the ratification provision. I will have some questions for the panel about how the ratification procedure should operate, and I am encouraged by the language which seems to imply that local laws would be controlling on this matter.

Finally Mr. Chairman, I urge caution in trying to adopt a one size fits all approach to political status issues. I am pleased that the general thrust of H.R. 4442 seems to be geared for the particular circumstances of each territory with no pre-ordained outcome, except a general encouragement of efforts to achieve greater self-government. What Guam seeks may not be what works for another insular area. Conversely, what everyone else aspires for may not be suited for Guam's historical circumstances.

The people of Guam have chosen a course, and I endorse that choice. This committee can be helpful to our quest for Commonwealth status by continuing to raise the issue of political status within the federal government. I hope that we do not end up clouding the issue or further delaying the process that Guam has embarked on by proposing various gyrations of unlimited paths. Above all, let's be helpful to those who have already invested a great deal of time, energy, and hope in their efforts to achieve a place in the American political system.

I want to extend a warm Hafa Adai to our witnesses from Guam and Puerto Rico who have joined us this morning. I look forward to your testimony on these issues. Si Yu'os Ma'ase.



Mr. DE LUGO. Let me also welcome all of you. There are so many old friends and faces that have been through this with us. It is good to have you back with us, and the new young faces are welcome, too.

It is my pleasure at this time to welcome before the committee my governor, Governor Alexander A. Farrelly, governor of the Virgin Islands. If you would come forward to the witness table, it is a pleasure to have you here this morning.

I know there was some question as to whether you would be able to testify, and I am glad that your schedule worked out and that you are here with us on this occasion. The committee looks forward to receiving your statement.

Welcome, Governor.

### STATEMENT OF HON. ALEXANDER A. FARRELLY, GOVERNOR, U.S. VIRGIN ISLANDS

Governor FARRELLY. We are glad to appear before you, sir. As I suggested to you before the hearing commenced, by a force of circumstance, I was required to be in the Nation's Capitol yesterday.

I want to make a transition from what caused me to be here yesterday to your committee and the status conference that begins tomorrow.

Mr. DE LUGO. It was my good fortune.

Governor FARRELLY. Mr. Chairman, distinguished members of the subcommittee, members of the subcommittee, my fellow colleague governors from around the world, ladies and gentlemen, I wish to thank the subcommittee for the opportunity to comment on H.R. 4442.

We appreciate this latest initiative on the part of Congress to review the political status of the U.S. territories and to provide a process for negotiations with the Federal Government leading to an enhancement of the various political status arrangements in our respective territories and commonwealths.

We are particularly pleased, Mr. Chairman, with the proposal to establish a personal representative of the President who would consult and develop in good faith with representatives designated by the territorial governments a set of Articles of Relations and Self-Government.

This approach which provides for a specific timetable for completion of negotiations and approval by the parties of a draft agreement for the presentation to the people of the territories for ratification is one method which might be considered to begin the process of consultations between the Federal executive branch and the territorial governors leading to a resolution of the status question in the remaining U.S. territories by the end of the decade.

This subcommittee may also wish to consider the addition of an alternative approach which would specifically recognize the right of the people of a territory to ratify their status choice by referendum in advance of negotiations with the Federal representative, thus enabling a territory to consolidate its position with the prior mandate of the electorate before negotiations with the presidential representative begin.

Mr. Chairman, members of the subcommittee, with regard to the specific elements of the current proposed legislation, we recognize



that H.R. 4442 is an amended version of the original bill, H.R. 3715, submitted on November of 1993 and which was designed to provide consultation for the development of Articles of Incorporation for territories of the United States.

In this context, Mr. Chairman, permit me a few observations of comparison of the old and new versions as are important to the analysis of this latest approach to address the issue of political development of our territories.

We note, for example, that references contained in the article 1 of the original bill along with language recognizing the United States as one of the remaining administering powers have been omitted from the current version.

We would have preferred that these important references to the international process be retained in the revised legislation, if only for purposes of consistency with long-standing Federal policy routinely articulated by the State Department before the United Nations.

Section 1 of the original version of the bill also provided for the incorporation of the U.S. territories consistent with the freely expressed act of self-determination of the people of the territory while the amended version refers to this incorporation as political integration.

It is important to note, therefore, that the use of the term "political integration" in the new version would bring the legislation in line with international principles, consistent with the spirit of the original legislation and as contained in relevant United Nations Assembly resolutions.

We must also bear in mind that this status of political integration as referenced by the State Department is required to be on the basis of complete equality with equal status and rights of citizenship and with equal rights and opportunities for representation and effective participation at all levels in the executive, legislative, and judicial organs of the government.

It is also noteworthy that the revised legislation has expanded the options to include the possibilities for other political status arrangements with the United States. Although the new version of the bill does not identify which arrangements would be applicable, it is suggested that the intention is to include the options of free association and independence.

As in the case of political integration, we would suggest that due consideration be given by the committee how these other two options are defined, in particular, the option of free association which provides for a substantial degree of flexibility.

This is not limited only to the free association statehood option which has been chosen by the Marshall Islands, the Federated States of Micronesia, and Palau, but includes the free association territories of Cook Islands in association with New Zealand in the Pacific and the Netherlands Antilles in association with the Kingdom of the Netherlands in the Caribbean. In the latter two examples, the citizenship of the cosmopolitan country is maintained with provision for the maximum degree of autonomy to the associated territory.

In conclusion, Mr. Chairman, it is our view that elements of both the original and revised versions of this legislation, with adjust-

ments along the lines of our suggestions, might serve as a good starting point for the development of a consistent yet flexible policy toward the self-determination of the U.S. territories.

Again, on behalf of the government of the Virgin Islands, I thank you, Mr. Chairman and the other distinguished members of this committee for this opportunity to comment on this proposed legislation.

Mr. DE LUGO. Thank you, Governor Farrelly.

[Prepared statement of Gov. Farrelly follows:]

TESTIMONY  
of  
THE HONORABLE ALEXANDER A. FARRELLY  
GOVERNOR  
UNITED STATES VIRGIN ISLANDS

Before the  
Subcommittee on Insular and International Affairs  
United States House of Representatives

July 14, 1994

(H.R. 3797)

Mr. Chairman and members of the Subcommittee

Thank you for your invitation to comment on H.R. 3797. It is a significant proposal, not only because of its effect on administrative procedures, but because it is so earnestly pursued by the ranking Republican on this Subcommittee.

I have respect for Congressman Gallegly, and his interest in the territories. He has been helpful to the Virgin Islands on a number of occasions. I would like to be helpful to him here. But in its current form, I cannot support H.R. 3797.

The bill affects the Virgin Islands in two important ways: 1) It would shift certain administrative functions from the Department of Interior to the Department of Commerce; 2) It would eliminate the position of Assistant Secretary within the federal hierarchy as an advocate for territorial interests.

As this committee knows well, the territories have no voting influence on federal policy. Our citizens cannot vote for the President. Our Delegates cannot vote in the House. We have no representation in the Senate. These realities have caused our Delegates to develop ingenious ways to affect decisions in Congress and gain the attention of the Administration. There are some

amazing success stories in spite of our handicaps. This bill even declares that the territories now deal with the federal agencies "like a State". The fact is we are not States. We have no where near the influence or access to federal departments that states have. We are often forgotten, or overlooked, in the formulation and creation of federal policy. Not three months ago, representatives of the President's National Health Plan were quoted in the Virgin Islands Daily News as not knowing that the people of the Virgin Islands were U.S. citizens.

Our visibility to the federal system cannot be taken for granted. We struggle to be heard, and to count, when we do not have a single vote. We are already painfully aware that we lose one of our most effective voices with the retirement at the end of this year of our Delegate and the Chairman of this Subcommittee.

Now, H.R. 3797 proposes to eliminate the position of Assistant Secretary for the Territories. To end this visibility, lose our Chairman, and learn of the possibility of this very Subcommittee being abolished -- well, it sends the wrong signal at the wrong time. After five decades of slow but steady progress for the Territories, we wonder if the passage of this bill means the federal government believes we have come far enough. I respectfully suggest that we do not give up what we have gained until it can be replaced by the right to vote.

It is not enough to say that most of the Territories have reached their goal. Alaska and Hawaii are states. Puerto Rico has

direct, formal access to the White House. Some smaller areas have resolved their status issues. Now that the remaining issues seem few and less important, H.R. 3797 seems to want to sweep the residue under the rug.

I am opposed to that. So long as one United States citizen is left without full and fair voting access to their federal government, then the Congress and the President should keep the problem very visible -- very much alive. We are not so small we can or should be forgotten. I favor retaining the position of Assistant Secretary for the Territories at this time.

H.R. 3797 proposes to shift administrative functions from Interior to Commerce. It does not say why Commerce is the better location. It does not impose guidelines or guarantees that the Department of Commerce will preserve and protect the territories' rights and interest. How do we know that Commerce will do a better job? It is just a shift, passing the buck.

Mr. Chairman, you have been clear and vocal on the need to improve the administrative procedures between the federal government and its territories. I have been particularly supportive of your idea that the broad spectrum of policy decisions affecting the Territories might be best addressed through a position in the White House. This would be a vertical move -- a significant step up the ladder. It says to me that the federal government will continue to underscore the importance of representation of the Territories. It says that U.S. citizens without the right to vote will be given the



extra attention that such a problem deserves.

But the change from Interior to Commerce is, at best, a horizontal move. Without the preservation of the Assistant Secretaryship, it may very well be a downward move.

I ask this Committee to carefully consider both the appearance and the actual consequences of the changes proposed in H.R. 3797. I ask that you focus on the core issue of democratic representation as well as the administrative functions of the federal bureaucracy. I hope the Committee will ensure that every change in the federal/territorial relations is a step closer to giving U.S. citizens in the territories the same influence and representation in the federal government as all other U.S. citizen have. H.R. 3797 lacks that perspective.

Mr. DE LUGO. I found particularly interesting your references to free association and in particular the free association of the Cook Islands with New Zealand and the Netherlands Antilles with the Netherlands pointing out that, in these two instances, the free association included citizenship with the cosmopolitan country.

Governor FARRELLY. Yes, sir.

Mr. DE LUGO. Whereas in the case of the Marshall Islands, Palau, and Micronesia, that is not the case.

Governor FARRELLY. Correct.

Mr. DE LUGO. While free association is a new political status, fairly new for this country up until the present time, the United States has not extended the citizenship with free association, but neither has it taken a formal position on that. So your suggestion is very, very interesting.

I also suggest, Governor, retaining the former bill's references to the U.N. self-determination standards, why do you think that this is needed and wouldn't a sufficient U.S. policy be enough?

Governor FARRELLY. Well, I do note with interest some of the speakers preceding me made reference to the decade of colonialism as declared through United Nations General Assembly resolutions. I thought the context of that resolution would be a good one, and we can begin to revisit the question of standards.

Mr. DE LUGO. Thank you. The gentleman from Alaska.

Mr. YOUNG. Governor, I interpret what you have said in you very good testimony is that you would like to have the findings of the original H.R. 3715 reinstated in H.R. 4442; is that correct?

Governor FARRELLY. That would be my preference, Mr. Chairman.

Mr. YOUNG. Again, I want to stress something to you Governor and all of those in the audience. This is a hearing process to bring up the good and bad points of the bill. I appreciate every one of them. I just want us to get off the dime if we are not going to do this.

I think my good friend from Guam brought it out very well. Bringing attention to the territories is crucially important to me because, if not, we will wait around here for another 10 or 20 years and be right where we are today.

Governor FARRELLY. Mr. Young, we think it is a good strategy to sort of revisit the entire issue using your bill as a point of beginning.

Mr. YOUNG. Governor, when is your term up?

Governor FARRELLY. End of this year, after eight years.

Mr. YOUNG. I have told the chairman, I have got to get down sometime to the Virgin Islands, possibly this next winter.

Governor FARRELLY. I would encourage that before my term expires.

Mr. YOUNG. Thank you, sir.

Mr. DE LUGO. I thank the gentleman from Alaska and, Governor, just a moment. There are questions from the gentleman from Puerto Rico.

Mr. ROMERO-BARCELÓ. I would like to welcome Governor Farrelly. Glad that he is able to be with us here today. Thank you for your statement.

Governor FARRELLY. Thank you, sir.

Mr. ROMERO-BARCELÓ. Governor, I want to ask you something. If a constitutional amendment were to provide for presidential vote and representational vote in the House of Representatives to the insular territories, would you then favor the incorporated territory option for the Virgin Islands?

Governor FARRELLY. Mr. Resident Commissioner, I have always been very careful as we talk about status to try to determine with some foresight the economic consequences of status.

I suspect that many of us have not paid attention to that factor. For example, we have special arrangements with the Federal Government which may be put into jeopardy, and I am not certain yet and have not crossed that bridge, where the sacrifice of the economics is worth the improvement in status.

Mr. ROMERO-BARCELÓ. For the Virgin Islands?

Governor FARRELLY. Yes.

Mr. ROMERO-BARCELÓ. All right. So then I guess that my question you cannot answer.

Thank you.

Governor FARRELLY. Thank you, sir.

Mr. DE LUGO. The gentleman from Guam.

Mr. UNDERWOOD. Thank you very much for your testimony, Governor, it is very interesting that many of the points that you have raised are certainly some of the points that people in Guam have raised on this issue. Just goes to show that good people think alike.

The issue that you raise, which is a pretty critical one, is that the legislation as introduced requires a plebiscite after it passes Congress and you suggested that something in advance of a plebiscite be held in advance of effecting the process that is described here.

Governor FARRELLY. That was would be my preference, but it is not an absolute sine qua non.

Mr. UNDERWOOD. What would be the kinds of problems that would surface if we didn't have that, or why do you have this preference?

Governor FARRELLY. Well, for one thing, it would assure the Federal officials that the representatives chosen from the territory speak with one voice supported by constituents.

I think it would be important for the United States as well as the territories to understand in what direction its citizens wish to go and to show that by having it pre-negotiated rather than post.

Mr. UNDERWOOD. Thank you very much.

Mr. DE LUGO. The gentleman from American Samoa.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I want to thank Governor Farrelly for making some very profound points here in the legislation, and I think his point about this additional phrase added to the proposed bill through another arrangement with the United States does add in a very important factor here where an insular area may not necessarily want to integrate with the U.S., but having another arrangement which touches on perhaps where the United Nations might have some involvement, independence or free association being the other possible options.

Am I correct that this is the other arrangement as written in the bill, Mr. Chairman? On this basis, maybe our friend from Alaska—

Mr. DE LUGO. Not being the author of the bill——

Mr. YOUNG. The definitions of the U.N. Declaration provide for Integration or Independence, like the Philippines, or Free Association, like Micronesia. There is that possibility, yes, under the bill.

Mr. FALCOMA. Governor, do you find that this may be a potential option for the Virgin Islands in the future, free association as well as independence?

Governor FARRELLY. It is a status that I think we would seriously consider. But I would like to restate, if only for the interests of emphasis, that I am very concerned personally about the implications of economic change inherent in any change in status because I think one set would follow the other, and I would want to be very careful in the zeal to run in a certain status direction we don't chop off our economic arm.

Mr. FALCOMA. I see. Thank you, Mr. Chairman.

Thank you, Governor.

Governor FARRELLY. Thank you sir.

Mr. DE LUGO. One final question, Governor. Wouldn't citizenship be an absolute prerequisite for free association to be seriously considered by the Virgin Islands?

Governor FARRELLY. It won't go anywhere, Mr. Chairman, without that provision.

Mr. DE LUGO. Thank you very much.

Governor FARRELLY. That is basic for the whole process as far as we are concerned.

Mr. DE LUGO. Thank you very much, Governor. I am very glad your schedule made it possible for us to have you before us.

Governor FARRELLY. I appreciate that.

Mr. DE LUGO. See you at the conference.

Governor FARRELLY. Yes.

Mr. DE LUGO. Look forward to it.

In 1989, the leaders in Puerto Rico of three competing status movements patriotically united to ask the Federal Government to invite a status referendum and commit to act on implementing a winning status.

One of those leaders was our next witness, who then headed the Statehood Party and is now Secretary of State and he is also a former member of this committee and a good friend of the chairman, Baltasar Corrada del Río.

As he prepares to testify, I want to outline what happened after 1989. The President at the time, the chairman of the Senate committee and many others in this House wanted to comply, but the President didn't really lead on the approach and his Administration wasn't organized to address Puerto Rico issues in spite of the President's interests, and the Senate chairman and the leaders of this House favored different approaches.

I am proud to have sponsored a bill that would have required consultations with Puerto Rico in a status preference chosen in a referendum, committed Congress to act, giving the people the final decision and required further consultations, if needed.

The House passed my bill, but the Senate did not pass a bill in spite of the best efforts of the Senate chairman.



A message that Puerto Rico's new administration took from the Senate debate was that Puerto Rico ought to begin the process with a formal petition of its status preference.

A plebiscite last year produced a petition for commonwealth proposals, and proponents as well as the Statehood majority in the legislature requested Federal action. I think that the people are entitled to a serious and constructive response, although some Members may not agree.

The difficult issues were a major factor in the President recognizing that the executive branch needs a better process for developing policy with respect to Puerto Rico. I have postponed our hearing on the actions that the Federal Government should take to give the Administration time. But six months after the plebiscite, there is no clear approach.

And there is none, although it is five years since leaders of Puerto Rico patriotically united to request a process. Having said that, let me welcome the Secretary of the State of Puerto Rico and the leader in the Statehood movement, Baltasar Corrada del Río.

#### **STATEMENT OF HON. BALTASAR CORRADA DEL RÍO, SECRETARY OF STATE OF THE COMMONWEALTH OF PUERTO RICO**

MR. CORRADA DEL RÍO. Thank you very much, Mr. Chairman, Chairman de Lugo, members of the subcommittee. My name is Baltasar Corrada del Río. It was my privilege to serve in the U.S. House of Representatives for eight years as Puerto Rico's resident commissioner. And now I am Puerto Rico's Secretary of State.

I appear on behalf of the Governor of Puerto Rico, the Honorable Pedro J. Rossello, to present the views of our administration with respect to H.R. 4442.

In order to remedy the political situation faced by the insular areas of the United States, Congress must first address its legal basis, which is the application of the incorporation doctrine as developed by the U.S. Supreme Court in the insular cases.

The application of incorporation doctrine to Puerto Rico would provide first-year law students with a striking illustration of the discontinuity between the law as it is and the law as it ought to be. When Congress granted American citizenship to the inhabitants of Puerto Rico by virtue of the Jones Act, Puerto Rico should have become an incorporated territory of the United States. For Alaska, granting citizenship resulted in incorporation.

The law, nonetheless, is that Puerto Rico remains an unincorporated territory of the United States—however difficult it may be to comprehend that a person can become a citizen of the United States by birth in Puerto Rico, yet Puerto Rico not being considered as part of the United States.

American citizenship has been recognized as a source of equal rights for those who possess it, but nearly 4 million American citizens who reside in the insular possessions, including more than 3.6 million who reside in Puerto Rico, are denied such fundamental democratic and constitutional rights as participating in the election of the President and Vice President of the United States and having voting and proportional representation in Congress.



We are also before a glaring example of judicial law-making at its worst. The history of the many bills that were introduced in Congress for the purpose of granting American citizenship to Puerto Ricans provide ample demonstration that in contrast with the Philippine Islands, for which independence was planned, Congress intended that Puerto Rico forever remain a part of the United States.

Despite this fact, the U.S. Supreme Court found in an opinion rendered by Chief Justice Taft in *Balzac v. People of Puerto Rico*, that while granting American citizenship to Alaskans resulted in the incorporation of that territory to the United States, in the case of Puerto Rico, such result did not follow.

Therefore, according to *Balzac*, the granting of American citizenship did not alter Puerto Rico's condition as an appurtenance or possession of United States as opposed to becoming a part thereof.

This is the legal and political reality that Puerto Rico faces today. The courts continue to designate Puerto Rico as an unincorporated territory and thus recognize the Territorial Clause of the Constitution as the source of the power of Congress to legislate over Puerto Rico despite claims to the contrary by the advocates of the so-called commonwealth status.

As recently as last February, the U.S. Supreme Court refused to review the decision of the U.S. Court of Appeals for the Eleventh Circuit in *United States v. Sanchez* which found that Puerto Rico remained a territory after the creation of the Commonwealth of Puerto Rico and thus cannot be considered a separate sovereign for the purpose of the dual sovereignty exception to the Double Jeopardy Clause as are States of the Union.

The Court of Appeals examined Puerto Rico's political status and reached the following conclusion;

Congress has simply delegated more authority to Puerto Rico over local matters. But this has not changed in any way Puerto Rico's constitutional status as a territory, or the source of power over Puerto Rico. Congress continues to be the ultimate source of power pursuant to the Territory Clause of the Constitution.

The bill that was to be discussed originally at this hearing, H.R. 3715, expressly recognized this reality: That the four insular areas of the U.S., including the Commonwealth of Puerto Rico, are unincorporated territories. Not so in H.R. 4442.

In fact, the words "territory" or "territories" do not appear in H.R. 4442. The words "colonialism" or "decolonized" do not appear in the new bill either.

From the omission of such wording, a reader may find reason to interpret a change in legislative intent. However, we understand from the statement of Congressman Young, a good friend of Puerto Rico, a good friend of the territories, recently released by the subcommittee chairman, that the bent of the new bill is to provide a mechanism by which the insular territories can achieve full self-government in accordance with international decolonization standards through options in addition to a form of incorporation that includes measures to provide political empowerment for its inhabitants on an equal footing with citizens of the several States.

In short, to achieve the decolonization of insular territories through means in addition to *enhanced incorporation* as conceived by Congressman Young.

Since that is the intent of H.R. 4442, we suggest that it be amended in order that only political status options consistent with Principles VI, VII, VIII, and IX of the Annex to Resolution 1541 (XV) of the United Nations General Assembly be admitted in the proposed consultation process for the development of the Articles of Relations and Self-Government.

Principle VI provides that a territory can be said to have reached a full measure of self-government three ways: by becoming a sovereign independent state, by entering into free association with an independent state, or by integrating into an independent state.

Principle VII provides the attributes of free association, which I refer to in my statement. And I suggest that if you are to develop in this bill the concept of free association, then it ought to follow the parameters set by the U.N. in that resolution.

Therefore, in order for a territory to enter into free association, it must first have achieved sovereignty. By definition, the people of a territory cannot retain, after association, the power to freely exercise its will if it did not first possess that power.

Sovereignty is also necessary in order that the constitution of a territory not be subordinate to any authority other than the will of the territory's inhabitants.

Principles VIII and IX pertain to integration. In my full text, I quote at length from that principle regarding integration which definitely would encompass what statehood would be for Puerto Rico.

A decolonizing incorporation as conceived by Congressman Young requires that the Constitution of the United States be amended in order for the American citizens residing in the insular territories to have voting and proportional representation in the U.S. House of Representatives and to participate in the election of the President and Vice President of the United States.

Therefore, we do not believe that incorporation is configured as an option for the eradication of colonialism among the U.S. insular territories at this time. The constitutional foundation for a decolonizing incorporation into the United States is yet to be laid. At least, a blueprint or plan to lay such foundation should be provided in the legislation.

For the inhabitants of an insular territory that because of small size of its population may not be deemed ready for admission into the Union, enhanced incorporation as envisioned by Congressman Young may become the only way to seek political equality with respect to the citizens of several States.

So perhaps this proposal may be convenient to some of the other territories of the United States. Moreover we do not consider enhanced corporation in Puerto Rico as fourth political status alternative, among independence, free association, and statehood. We do not believe it is really an option to a territory as in Puerto Rico for which statehood is available.

For Puerto Rico, statehood is still a viable political option which will allow American citizens residing in the island to achieve equality without the need to enter into a process by which the Constitution be amended. In fact Congress has already paved the way for Puerto Rico to become a State by bestowing American citizenship upon all persons born in Puerto Rico and allowing the people of

Puerto Rico to establish a local form of government not unlike that of a State.

Besides statehood, only incorporation can guarantee Puerto Rico's permanent union with the United States and the irrevocability of American citizenship for its inhabitants. Therefore, for the advocates of the commonwealth status, obtaining Puerto Rico's incorporation into the United States is the only means by which they can implement the two fundamental claims of the commonwealth status definition without Puerto Rico becoming a state, that is a permanent union with the United States and irrevocable American citizenship.

So if they truly believe in permanent union, I would suggest that those who support commonwealth ought to support this bill. If they reject this bill, it is because truly they do not believe in a permanent union with the United States as would be achieved under the terms of this bill.

If decolonization of insular territories is to be achieved before the end of the decade, it is critical that arrangements other than political integration or any measures towards greater self-government considered by the executive branch and Congress be of a decolonizing nature pursuant to international standards.

Therefore, in other words, if you are to incorporate free association, that free association should be decolonizing and to be decolonizing you have to follow the standards set by the United Nations to which I have made reference earlier.

Although the term "commonwealth" does not describe Puerto Rico's political relationship with the United States, the Popular Democratic Party contends that a new relationship had come into being with the adoption of the Constitution and that the same is based in a compact entered into by the United States and Puerto Rico as sovereign entities, which compact cannot be altered except by mutual consent.

The claim of a new constitutional statute found support in the Constitutional Convention in Puerto Rico approving a resolution by which the word *Commonwealth* was officially translated into Spanish as *Estado Libre Asociado*, which is actually the Spanish translation for Free Associated State.

Is the so-called existing commonwealth status free association? Certainly not. Not in light of the criteria set forth in Principle VII of the U.N. The adoption of a constitution by the people of Puerto Rico was subject to the condition that it provide for a republican form of government, include a bill of rights, and conform to the applicable provisions of Public Law 600 and the U.S. Constitution.

However, in approving the constitution drafted by the Puerto Rico Constitutional Convention and adopted by the people of Puerto Rico in a referendum, Congress unilaterally amended article II, section 5, which provides the right of to free public association, to clarify that private education was not prohibited; eliminated section 20 in article II, which recognized a series of human rights, on account of such rights being of a socialist nature, and added the following words to section 3 of article VII:

Any amendment or revision of this constitution shall be consistent with the resolution enacted by the Congress of the United States approving this constitution, with the applicable provisions of the Constitution of the United States, with the



Puerto Rican Federal Relations Act, and with Public Law 600, Eighty-first Congress, adopted in the nature of a compact.

Thus Puerto Rico does not have as a free associated state what it would have under the U.N. provisions—adopting a constitution of its own without interference with the metropolis. Since the power of people of Puerto Rico to amend its constitution is subordinated not only to the Constitution of the U.S., but a resolution and two acts of Congress, no valid claim can be made that Puerto Rico achieved any degree of sovereignty in adopting its constitution. By international standards, Puerto Rico continues to be a non-self-governing territory, a colony of the United States.

The observations made today should not be understood as a rejection of incorporation. For Puerto Rico, incorporation would be a significant step in the path towards achieving political equality through statehood, but we believe that statehood is available to Puerto Rico without the need for prior incorporation.

Moreover, providing a mechanism by which the American citizens of an insular territory can seek full self-government and constitutional rights equal to those of the citizens of the several States with incorporation is a worthy idea that should be encouraged to its full realization.

For an insular territory that is not deemed ready for statehood, enhanced incorporation may be the only means by which its inhabitants could seek political equality within the U.S. constitutional system at this time.

So, yes, we favor this choice being given to the territories, if they wish to exercise it. Above all, we must applaud Congressman Young for his initiative in pursuing the decolonization of the insular territories by the end of the decade. It is an ambitious goal, but one that we believe can be achieved with goodwill and hard legislative work. We hope that he has the support of this subcommittee with the clarifications or amendments that we have indicated.

Thank you very much.

Mr. DE LUGO. Thank you very much for that statement.

[Prepared statement of Mr. Corrada del Río follows:]

STATEMENT OF  
THE HONORABLE BALTASAR CORRADA DEL RIO  
SECRETARY OF STATE OF PUERTO RICO  
BEFORE THE U.S. HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS  
REGARDING H.R. 4442  
MAY 24, 1994

Chairman De Lugo and members of the U.S. House Committee on Natural Resources and Subcommittee on Insular and International Affairs:

My name is Baltasar Corrada del Río. It was my privilege to serve in the U.S. House of Representatives for eight years as Puerto Rico's Resident Commissioner. Subsequently, I was elected Mayor of San Juan and held the position of President of the New Progressive Party which seeks to attain equality of rights for the American citizens of Puerto Rico by means of achieving Puerto Rico's admission as a State of the Union. Currently, I hold the office of Secretary of State which is the second highest office in the executive branch of the Government of Puerto Rico.

Today I appear on behalf of the Governor of Puerto Rico, the Honorable Pedro J. Rosselló, to present the views of our administration with respect to H.R. 4442.

In order to remedy the political situation faced by the insular areas of the United States, Congress must first address its legal basis—which is the application of the incorporation doctrine as developed by the U.S. Supreme Court in the *Insular Cases*.

The application of the incorporation doctrine to Puerto Rico would provide first-year law students with a striking illustration of the distinction between the law as it is and the law as it ought to be. When Congress granted



American citizenship to the inhabitants of Puerto Rico by virtue of the Jones Act of 1917<sup>1</sup>, Puerto Rico should have become an incorporated territory of the United States.<sup>2</sup> For Alaska, granting citizenship resulted in incorporation<sup>3</sup>. The law, nonetheless, is that Puerto Rico remains an unincorporated territory of the United States —however difficult it may be to comprehend that a person can become a citizen of the United States by birth in Puerto Rico yet Puerto Rico not being considered a part of the United States.<sup>4</sup>

American citizenship has been recognized as a source of equal rights for those who possess it<sup>5</sup> but nearly 4 million American citizens who reside in the insular possessions —including more than 3.6 million who reside in Puerto Rico— are denied such fundamental democratic and constitutional rights as participating in the election of the President and Vice President of the United

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<sup>1</sup> 39 Stat. 951 (1917), 8 U.S.C. § 1402.

<sup>2</sup> See generally, Torruella, *THE SUPREME COURT AND PUERTO RICO: THE DOCTRINE OF SEPARATE AND UNEQUAL* (1985). Juan R. Torruella is the most senior judge in the U.S. Circuit Court of Appeals for the First Circuit after U.S. Supreme Court nominee Stephen Breyer.

<sup>3</sup> See *Russmussen v. United States*, 197 U.S. 516 (1905). In *Downes v. Bidwell*, 182 U.S. 245 (1901), the opinion of Justice White, in which Justice Shira and McKenna concurred, provided indications of a correlation existing between conferring citizenship to the inhabitants of a territory and the purpose to incorporate that territory.

<sup>4</sup> See Rodríguez-Suárez, *Congress Giveth U.S. Citizenship Unto Puerto Ricans; Can Congress Take It Away?*, 48 PR BAR ASSN. L. REV. 37 (1987).

<sup>5</sup> In the *Dred Scott* case, 60 U.S. (19 How.) 393 (1857), the terms "citizens" and "people of the United States" were equated and recognized as a single community of persons entitled to equal rights, privileges and immunities regardless of whether they reside in the States or the territories. This view of citizenship was adopted in the Civil Rights Act of 1866 which provided that "[a]ll persons born in the United States and not subject to any foreign power ... are hereby declared to be citizens of the United States; and such citizens, of every race and color, shall have the same right, in every State and Territory in the United States," 14 Stat. 27 §1 (1866).

States and having voting and proportional representation in Congress.

We are also before a glaring example of judicial law-making at its worst. The history of the many bills that were introduced in Congress for the purpose of granting American citizenship to Puerto Ricans provide ample demonstration that, in contrast with the Philippine Islands for which independence was planned, Congress intended that Puerto Rico forever remain a part of the United States.<sup>6</sup> Despite this fact, the U.S. Supreme Court found, in a opinion rendered by Chief Justice Taft in *Balzac v. People of Porto Rico*<sup>7</sup> that while granting American citizenship to Alaskans resulted in the incorporation of that territory to the United States, in the case of Puerto Rico such result did not follow. Therefore, according to *Balzac*, the granting of American citizenship did not alter Puerto Rico's condition as an appurtenance or possession of the United States as opposed to becoming a part thereof.

This is the legal and political reality that Puerto Rico faces today. The courts continue to designate Puerto Rico as an unincorporated territory and thus recognize the Territorial Clause of the Constitution as the source of the power of Congress to legislate over Puerto Rico despite claims to the contrary by the advocates of the so-called commonwealth status.<sup>8</sup>

As recently as last February, the U.S. Supreme Court refused to review the decision of the U.S. Court of Appeals for the Eleventh Circuit in *United*

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<sup>6</sup> See Tortuella, *THE SUPREME COURT AND PUERTO RICO: THE DOCTRINE OF SEPARATE AND UNEQUAL* (1985); Cabranes, *CITIZENSHIP AND THE AMERICAN EMPIRE; NOTES ON THE LEGISLATIVE HISTORY OF THE UNITED STATES CITIZENSHIP OF PUERTO RICANS* (1979), originally published as an article in the *University of Pennsylvania Law Review*, 127 U. Pa. L. Rev. 391 (1978).

<sup>7</sup> 258 U.S. 298 (1922).

<sup>8</sup> See *Harris v. Rosario*, 446 U.S. 651 (1980), in which the U.S. Supreme Court determined that, by virtue of the Territorial Clause of the U.S. Constitution, Congress "may treat Puerto Rico differently from States so long as there is a [r]ational basis for its actions." See also *United States v. Torres*, 826 F.2d 151, 154 (1st Cir. 1987) and *Perez de la Cruz v. Crowley Towing and Transportation Co.*, 807 F.2d 1084, 1088 (1st Cir. 1986).

*States v. Sanchez*<sup>9</sup> which found that Puerto Rico remained a territory after the creation of the *Commonwealth of Puerto Rico* and thus cannot be considered a separate sovereign for the purpose of the dual sovereignty exception to the Double Jeopardy Clause as are States of the Union. The Court of Appeals examined Puerto Rico's political status and reached the following conclusion:

Congress has simply delegated more authority to Puerto Rico over local matters. But this has not changed in any way Puerto Rico's constitutional status as a territory, or the source of power over Puerto Rico. Congress continues to be the ultimate source of power pursuant to the Territory Clause of the Constitution.

The bill that was to be discussed originally at this hearing, H.R. 3715, expressly recognized this reality: that the four insular areas of the United States, including the Commonwealth of Puerto Rico, are unincorporated territories—not so H.R. 4442. In fact, the words "territory," "territories" or "unincorporated" do not appear in H.R. 4442. The words "colonialism" or "decolonized" do not appear in the new bill either.

From the omission of such wording, a reader may find reason to interpret a change in legislative intent. However, we understand from the Statement of Congressman Young recently released by the Subcommittee Chairman that the intent of the new bill is to provide a mechanism by which the insular territories of the United States can achieve full self-government in accordance with international decolonization standards through options in addition to a form of incorporation that includes measures to provide political empowerment for its inhabitants on an equal footing with the citizens of the several States. In short, to achieve the decolonization of the insular territories through means in addition to *enhanced incorporation* as conceived by Congressman Young.

Since that is the intent of H.R. 4442, we suggest that it be amended in order that only political status options consistent with Principles VI, VII, VIII and IX of the Annex to Resolution 1541 (XV) of the United Nations General Assembly be admitted in the proposed consultation process for the development

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<sup>9</sup> 992 F.2d 1143 (11th Cir. 1993), *reh'g en banc denied* 3 F.3d 366 (1993), *cert. denied Sanchez v. United States*, 114 S. Ct. 1051 (1994).

## of Articles of Relations and Self-Government.

Principle VI provides that a territory "can be said to have reached a full measure of self-government" by (i) becoming a sovereign independent state; (ii) entering into free association with an independent state; or (iii) integrating into an independent state.

Principle VII provides the attributes of free association which include:

(i) that it be a status that "retains for the peoples of the territory which is associated with an independent State the freedom to modify the status of that territory through the expression of their will by democratic means and by constitutional processes;" and

(ii) that "[t]he associated territory should have the right to determine its internal constitution without outside interference, in accordance with due constitutional processes and the freely expressed wishes of the people."

Therefore, in order for a territory to enter into free association it must first have achieved sovereignty. By definition, the people of a territory cannot *retain* after association the power to freely exercise its will if it did not first possess that power. Sovereignty is also necessary in order that the constitution of a territory not be subordinate to any authority other than the will of the territory's inhabitants.

Principles VIII and IX pertain to integration. Principle VIII, which would apply to statehood and incorporation, is worth quoting at length:

Integration with an independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenship and equal guarantees of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.



Moreover, Principle IX provides in part that integration should come about after the integrating territory has "attained an advanced stage of self government."

Incorporation does not by itself meet these criteria. In this sense, incorporation is not an inherently decolonizing political status alternative because it does not presuppose local self-government and does not bestow upon the citizens residing in the territories rights for representation and participation in the national electoral process equal to those enjoyed by the citizens residing in the States.

A decolonizing incorporation as conceived by Congressman Young requires that the Constitution of the United States be amended in order for the American citizens residing in the insular territories to have voting and proportional representation in the U.S. House of Representatives and to participate in the election of the President and Vice-President of the United States.<sup>10</sup>

Therefore, we do not believe that incorporation is configured as an option for the eradication of colonialism among the U.S. insular territories at this time. The constitutional foundation for a decolonizing incorporation into the United States is yet to be laid. At least, a blueprint or plan to lay such foundation should be provided in the legislation.

For the inhabitants of an insular territory that, because of the small size of its population, may not be deemed ready for admission into the Union, enhanced incorporation, as envisioned by Congressman Young, may become the only way to seek political equality with respect to the citizens of the several States. But the means and the process by which political equality would be achieved within the U.S. constitutional system must be understood by the inhabitants of the territory before embarking into a process of consultation with the federal government for the development of Articles of Relations and Self-Government.

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<sup>10</sup> Article I in sections 2 and 3 refer to Senators and Members of the House of Representatives being elected from States. The 14th Amendment in section 2 refers to Representatives being apportioned among the several States and the 17th Amendment refers to the Senate being comprised of two Senators from each State.

Moreover, we do not consider enhanced incorporation as a fourth political status alternative —among independence, free association and statehood— to a territory for which statehood is available. For Puerto Rico, statehood is a viable political status option which would allow the American citizens residing in the Island to achieve political equality without the need to enter into a process by which the Constitution be amended. In fact, Congress has already paved the way for Puerto Rico to become a State by bestowing American citizenship upon all persons born in Puerto Rico and allowing the people of Puerto Rico to establish a local form of government not unlike that of a State.

Besides statehood, only incorporation can guarantee Puerto Rico's permanent union with the United States and the irrevocability of American citizenship for its inhabitants. Therefore, for the advocates of commonwealth status, obtaining Puerto Rico's incorporation into the United States is the only means by which they can implement the two fundamental claims of the commonwealth status definition without Puerto Rico becoming a State.

Section 2 of the bill anticipates that a territory of the United States achieve a full measure of self-government "through another [undefined] arrangement with the United States" in addition to "political integration." Moreover, section 3(a) provides that the government of an insular territory may propose "measures to enable the citizens of the insular area to exercise *greater* powers of self-government or *greater* participation in the Federal system [emphasis provided]" —as opposed to *full* self-government and *equal* participation in the Federal system.

If decolonization of the insular territories is to be achieved before the end of the decade, it is critical that arrangements other than political integration, or any measures towards greater self-government, considered by the Executive Branch and Congress be of a decolonizing nature pursuant to international standards.

Therefore, we shall examine the question of whether the so-called commonwealth status meets the criteria of free association as set forth in Resolution 1541 (XV) of the United Nations General Assembly.

With the adoption of Public Law 600 in 1950,<sup>11</sup> Congress allowed the people of Puerto Rico to adopt a constitution for the organization of a local government. After a constitutional convention and a referendum, and following the approval of the Constitution by Congress, the political community known as the Commonwealth of Puerto Rico came into being in 1952. As reflected in the legislative history of Public Law 600, it was the intention of Congress to delegate to Puerto Rico a degree of autonomy in the management of its local affairs resembling that of a State of the Union and thus a republican form of government was adopted not unlike the Commonwealth of Pennsylvania, the Commonwealth of Massachusetts or the Commonwealth of Virginia.

Although the term *commonwealth* does not describe Puerto Rico's political relationship with the United States, the Popular Democratic Party contends that a new relationship had come into being with the adoption of the Constitution and that the same is based in a compact entered into by the United States and Puerto Rico as sovereign entities which compact cannot be altered except by mutual consent. The claim of a new constitutional status found support in the Constitutional Convention approving a resolution by which the word *Commonwealth* was officially translated into Spanish as *Estado Libre Asociado* which is actually the Spanish translation for Free Associated State.<sup>12</sup>

Is the so-called commonwealth status free association? Not in light of the criteria set forth in Principle VII. The adoption of a constitution by the people of Puerto Rico was subject to the condition that it provide for a republican form of government, include a bill of rights and conform to the applicable provisions of Public Law 600 and of the Constitution of the United States.<sup>13</sup>

However, in approving the Constitution drafted by the Puerto Rico Constitutional Convention and adopted by the people of Puerto Rico in a referendum, Congress unilaterally amended Article II, section 5, which provides

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<sup>11</sup> 64 Stat. 319 (1950).

<sup>12</sup> Resolution 22 of the Constitutional Convention approved February 4, 1952. Office of the Commonwealth of Puerto Rico, DOCUMENTS ON THE CONSTITUTIONAL HISTORY OF PUERTO RICO (1964) at pp. 164-165.

<sup>13</sup> Public Law 600, 64 Stat. 319 (1950).

the right to free public education, to clarify that private education was not prohibited; eliminated section 20 in Article II, which recognized a series of human rights, on account of such rights being of a socialist nature; and, added the following wording to section 3 of Article VII:

Any amendment or revision of this constitution shall be consistent with the resolution enacted by the Congress of the United States approving this constitution, with the applicable provisions of the Constitution of the United States, with the Puerto Rican Federal Relations Act, and with Public Law 600, Eighty-first Congress, adopted in the nature of a compact.<sup>14</sup>

Since the power of the people of Puerto Rico to amend its Constitution is subordinated not only to the Constitution of the United States but to a resolution and two acts of Congress, no valid claim can be made that Puerto Rico achieved any degree of sovereignty in adopting its Constitution. By international standards, Puerto Rico continues to be a non-self-governing territory — a colony of the United States.

The observations made today should not be understood as a rejection of incorporation. For Puerto Rico incorporation would be a significant step in the path towards achieving political equality through statehood but we believe that statehood is available to Puerto Rico without its prior incorporation.

Moreover, providing a mechanism by which the American citizens of an insular territory can seek full self-government and constitutional rights equal to those of the citizens of the several states with incorporation is worthy idea that should be encouraged to its full realization — for an insular territory that is not deemed ready for statehood, enhanced incorporation may be the only means by which its inhabitants could seek political equality within the U.S. constitutional system at this time.

Above all, we must applaud Congressman Young for his initiative in pursuing the decolonization of the insular territories by the end of the decade. It

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<sup>14</sup> Public Law 447, 66 Stat. 327 (1952).



is an ambitious goal but one that we believe can be achieved with good will and hard legislative work. We hope that it has the support of the Subcommittee.

I am available to answer any questions that you may have.

U.S. House of Representatives  
Subcommittee on Insular and International Affairs

**Supplemental Sheet**

Date: May 22, 1994

Subject: H.R. 4442

Witness: The Honorable Baltasar Corrada del Río  
Secretary of State of Puerto Rico  
(on behalf of the Governor)

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Summary: H.R. 4442 should provide that only political status options consistent with Principles VI, VII, VIII and IX of the Annex to Resolution 1541 (XV) of the United Nations General Assembly be admitted in the proposed consultation process for the development of Articles of Relations and Self-Government.

For the inhabitants of an insular territory that, because of the size of its population, may not be deemed ready for admission into the Union, enhanced incorporation may become the only way to seek political equality with the citizens of the several States. However, we do not consider enhanced incorporation as a fourth political status alternative —among independence, free association and statehood— to a territory for which statehood is available. For Puerto Rico, statehood is a viable political status option.

Mr. DE LUGO. You suggested that the bill be amended to limit the status options that could be pursued to options contained in the U.N. resolution and criticized the commonwealth for not meeting those standards.

The administration that you represent sponsored the plebiscite in which more people voted for commonwealth proposals than any other option. Why should the committee rule out options for Puerto Rico that the government of Puerto Rico itself did not rule out and which more people voted for than any other?

Mr. CORRADA DEL RÍO. First of all, let me point out that in the last referendum, the commonwealth for the first time was eroded and lost the support of the majority of the people of Puerto Rico, dropping from a 60 percent support back in 1967 to a 48.6 percent support in 1993.

And there were more people who voted against the commonwealth in Puerto Rico when you add those who voted for statehood and those who voted for independence than the ones who voted for commonwealth. So in fact the commonwealth's sole support significantly eroded in that plebiscite.

Second, we are talking here about decolonization. We are talking about how the nations of the world see and perceive Puerto Rico and the nations of the world have identified that decolonization process in the United States' resolutions in the definition of free association.

What we are saying, therefore, is that, if this Congress is to adopt a provision that would be respected through international public opinion, that you have to provide for a decolonization process.

Concerning this situation in Puerto Rico, I also believe that in that plebiscite those who support commonwealths support a permanent union and irrevocability as American citizens. What I am saying is, if they truly believe in that, then they ought to support the provision pertaining to enhanced integration or incorporation so that is a way that they could achieve this.

As a matter of fact, in the definition of commonwealth not only have they included permanent union with the United States and irrevocable American citizenship, they included parity in all Federal programs. Through incorporation, they could accomplish those goals.

So what I am saying is that the incorporation provisions of this bill would appear to satisfy the most important elements of the commonwealth's definition posed to the people of Puerto Rico last year.

Mr. DE LUGO. Could the bilateral packet that the commonwealth proposals in the plebiscite referenced as opposed, perhaps, to the arrangement that is already created and existing now, could those proposals comply with international status standards?

Mr. CORRADA DEL RÍO. Which proposal?

Mr. DE LUGO. The proposals that were referenced in the plebiscite.

Mr. CORRADA DEL RÍO. They talk about the bilateral packet. Let me tell you, Mr. Chairman, there are two factions within the commonwealth's status in Puerto Rico.

One that claims that there was a bilateral compact as a result of the 1950-1952 constitutional process and the other that claims that a new bilateral compact should be agreed upon between the United States and Puerto Rico. They ought to clarify, of course, their position regarding that matter, but regarding whether there was a bilateral compact as a result of what happened in 1950 and 1952, the Supreme Court of the United States in the case of *Harris v. Rosario*, very clearly indicated that Puerto Rico continues to be subject to the provisions after territorial clause of the U.S. Constitution, and there goes the theory of the bilateral compact.

If they want a new bilateral compact, then they ought to say so and be frank, and that bilateral compact ought to include the requirements of free association included in the definition of free association of United Nations.

Mr. DE LUGO. Thank you very much, Mr. Secretary.

The gentleman from Alaska.

Mr. YOUNG. Thank you, Baltasar. I appreciate your testimony. It is extremely good. I am not a lawyer, but you sure put a lot of stuff in there that I didn't know about, so I appreciate that.

Governor Farrelly supports a referendum be required in the legislation for the territory to start the process of change prior to the change. In your opinion would the November Puerto Rico referendum satisfy that requirement or would there have to be another one?

Mr. CORRADA DEL RÍO. Well, the way in which the matter is discussed in your bill, that there be a request by the governor to begin the process of a discussion of incorporation, and as a result of that process, a bill is enacted by Congress which would be subject then to the ratification of the territory, would appear to be fair and reasonable because of course it recognizes that the ultimate power for the adoption of that status would be the people of the territory.

In the case of Puerto Rico, since we had three options to be discussed, I would say question the support of the commonwealth status if those who support it wish to move the question of incorporation, the support of the commonwealth status had enough ingredients in it as to justify the consideration of a bill for incorporation by the Congress.

Why? Because in their definition of commonwealth, they included permanent union with the United States and they included irrevocable American citizenship. The only way that can be achieved is by incorporation or statehood. So it could be considered to be sufficient support for that.

However, I would not have any objection to the suggestion of Governor Farrelly, if it is so desired, that before beginning any discussion of political integration or incorporation, that there be some kind of local plebiscite. It can go either way.

Mr. YOUNG. Well, it is hard for me because I happen to agree with your testimony that regardless if the plebiscite had occurred, Puerto Rico is still a territory, still managed by Insular Affairs and this Congress, and we are trying to work our way around that.

By the way, Mr. Chairman, I have a letter from the Administration I will submit for the record at this time, which we received today and I won't go through the whole thing. I am just saying that hurts me a little bit because it is from Leslie Turner. It says "I be-



lieve that more time is necessary" before we participate in the process. I just wonder how much time we have left in the 1990s.

This is the letter here, Mr. Chairman. It just got here. So I am inclined to review your testimony and we will be looking at it very closely. I just hope all of us in this room understand that if we don't move very quickly in the next five years, Puerto Rico will end up still being a territory run by this Congress, and this committee and I don't want that.

Thank you.

[Prepared statement of Leslie M. Turner follows:]

STATEMENT OF LESLIE M. TURNER, ASSISTANT SECRETARY OF THE INTERIOR FOR  
TERRITORIAL AND INTERNATIONAL AFFAIRS

Mr. Chairman and Members of the Subcommittee on Insular and International Affairs, I am pleased to submit this written statement on behalf of the Administration with regard to H.R. 4442, a bill "to provide consultations for the development of Articles of Relations and Self-Government for insular areas of the United States.

Mr. Chairman, you and Mr. Young are to be complimented for your respective actions in convening these hearings and proposing the establishment of a "process" for addressing insular areas' future political status issues. An established process for considering political status issues would eliminate uncertainty for island leaders when they approach Washington with a political status proposal. Eliminating this uncertainty would benefit both the federal and local governments, by formalizing and clarifying lines of communication.

The United States has always been open to discussions of future political status issues. The executive branch seeks to maintain this open door policy should any insular areas determine that a re-examination of political status is necessary.

While we favor establishing a formal process, a great deal of thought must be devoted to the components of such a process. We wish to fully consider provisions of the bill to ensure that there is no foreclosure of options of status or timing that are, at present, available to the United States insular areas.

Secretary Bruce Babbitt and I fully support improved coordination on insular issues. Our greatest concern regarding H.R. 4442 is coordination with island leaders.

I believe that more time is necessary for a broad discussion of political status process issues in the islands. With full input from the insular areas, I believe that we can construct a future political status process that will satisfy all.

Mr. DE LUGO. Thank you. I might say that Puerto Rico is no longer under Interior; they are over at the White House now.

Mr. YOUNG. They may be at the White House, but anything that goes through the White House has to come through here, too.

Mr. DE LUGO. The gentleman from Puerto Rico.

Mr. ROMERO-BARCELÓ. Thank you, Mr. Chairman.

Mr. Corrada, welcome to the committee and subcommittee, and I want to congratulate you for your testimony. It explains many things to people who have not had the opportunity to study the political relationship between Puerto Rico and the United States at length.

But I would like to ask some questions to further clarify some concepts. In the 1993 plebiscite, the ballot submitted to the people of Puerto Rico, the commonwealth supporters who wrote their own definition for the ballot according to the law in Puerto Rico, started by saying that Puerto Rico and the United States guaranteeing progress and security as well as that of our children within the status of full political dignity based on the permanent union between Puerto Rico and the United States embodied in a bilateral pact that cannot be altered except by mutual agreement.

Do you know of any bilateral pact that has been entered between the people of Puerto Rico and the people of the United States?

Mr. CORRADA DEL RÍO. Absolutely not. The interpretation of what happened when the Constitution of Puerto Rico was approved and when Public Law 600 was approved by the Federal Courts up to and including the Supreme Court of the United States have indicated that there was no political status change in that process and that Puerto Rico continues to be a territory of the United States.

So really for that statement in the ballot that you just read to become effective, I believe they would have to start negotiations of a bilateral pact.

However, I have serious doubts that constitutionally the Congress of the United States may enter into a bilateral pact with a territory of the United States. This is like the master entering a contract with the slave.

Mr. ROMERO-BARCELÓ. And it is Public Law 600 that was referred to as having been adopted in Congress in the nature of a compact, but there was no such compact that exists.

Mr. CORRADA DEL RÍO. That is correct and in *Harris v. Rosario*, the Supreme Court of the United States was very explicit in saying that Congress under the territorial clause may discriminate against Puerto Rico by not allowing Puerto Rico to participate in a Federal program or allowing a lower participation than that conferred to any of the 50 States.

Mr. ROMERO-BARCELÓ. Can Congress unilaterally repeal Public Law 600 if it chose to do so?

Mr. CORRADA DEL RÍO. Not only could Congress unilaterally repeal Public Law 600 and the Puerto Rico Federal regulations of the act, which is our act of Congress, it could repeal the Constitution of Puerto Rico unilaterally as well and based on the decision of *United States v. Sanchez* and of the Eleventh Circuit U.S. Court of Appeals.

Mr. ROMERO-BARCELÓ. Therefore the representation made in the ballot by the commonwealth supporters to the people of Puerto Rico with respect to the bilateral compact is false?

Mr. CORRADA DEL RÍO. If it made reference to a previously existing bilateral compact, it was false. If they wanted to make a representation that they would endeavor to enter into a new bilateral compact, then it might not be false, but in my opinion, unattainable under the relationship between the U.S. and the territory but, yes, attainable under the free association provisions that might be worked in this bill.

Mr. ROMERO-BARCELÓ. The version of ballot on commonwealth goes on further to say the commonwealth guarantees—not in the future, not through any other process, but the present commonwealth guarantees, that is what it says in the ballot—one, irrevocable U.S. citizenship.

How is a citizenship granted to the people of Puerto Rico? By virtue of what? Was it the constitution?

Mr. CORRADA DEL RÍO. That provision, again, is legally and constitutionally wrong and false. What happens is this: It is very simple, American citizenship was bestowed upon the inhabitants of Puerto Rico by virtue of the Jones Act of 1917. That is an act of Congress. It is not a constitutional citizenship.

Mr. ROMERO-BARCELÓ. May I address that? Let me further ask, can law, that law in 1917 which says that all persons born in Puer-

to Rico will be citizens of the United States, can that law be repealed by this Congress?

Mr. CORRADA DEL RÍO. In my mind at least it can be repealed prospectively, if not retroactively.

Mr. ROMERO-BARCELÓ. For instance, Congress can say all persons born in Puerto Rico on January first 1996 and from there on shall no longer be deemed to be U.S. citizens by virtue of birth; can the Congress do that?

Mr. CORRADA DEL RÍO. The Congress can do that because irrevocable U.S. citizenship is guaranteed only by the citizenship described in the Fourteenth Amendment to the U.S. Constitution, and that is American citizenship obtained by the fact of being born within the United States, which does not include Puerto Rico, which is an unincorporated territory, or U.S. citizenship obtained through the process of naturalization.

Since U.S. citizenship in Puerto Rico was not obtained either by being born in the United States or by naturalization, yes, prospectively I believe that Congress could deny American citizenship to Puerto Ricans after a certain date if Congress so chose.

Mr. ROMERO-BARCELÓ. Those who already have citizenship, our citizenship cannot be taken away by a congressional act, but those that have not been born, they can be said that they will no longer be citizens, those that are born in Puerto Rico; is that correct?

Mr. CORRADA DEL RÍO. Right.

Mr. ROMERO-BARCELÓ. So that is another statement in the ballot about commonwealth that is false?

Mr. CORRADA DEL RÍO. That is correct.

Mr. ROMERO-BARCELÓ. It further said the commonwealth guarantees fiscal autonomy for Puerto Rico. What do you understand this to mean? Does this mean that Congress cannot tax Puerto Rico, is that not what it means?

Mr. CORRADA DEL RÍO. Yes, that is what it would mean.

Mr. ROMERO-BARCELÓ. Does Congress have authority to tax Puerto Rico?

Mr. CORRADA DEL RÍO. They do, and they do tax Puerto Rico.

Mr. ROMERO-BARCELÓ. How do they tax us, right now?

Mr. CORRADA DEL RÍO. We pay, for instance, social security tax in Puerto Rico. Federal employees working in Puerto Rico are subject to the payment of Federal taxes.

Mr. ROMERO-BARCELÓ. Federal income tax?

Mr. CORRADA DEL RÍO. Federal income taxes. You and I when I was resident commissioner had to pay Federal taxes.

Mr. ROMERO-BARCELÓ. If you have investments in the——

Mr. CORRADA DEL RÍO. If you have income from sources within the United States, you are subject to the payment of that. For instance, I have some long-term bonds after I sold my house which I invested in Federal bonds, and I had to pay Federal taxes on the increase in the value of those bonds.

Mr. ROMERO-BARCELÓ. So and now there are some corporations that used to be tax exempt in Puerto Rico, they are referred to as Section 936 corporations even though they are just main corporations who receive benefits from Section 936. Are they fully tax exempt nowadays?



Mr. CORRADA DEL RÍO. No. Based on amendments made to that provision by Congress in August of 1993, they are now paying Federal taxes because the 100 percent tax exemption was reduced to 60 percent and was scaled down to 40 percent by 1998.

Mr. ROMERO-BARCELÓ. And if Congress wanted to tax them, they could tax them fully.

Mr. CORRADA DEL RÍO. Absolutely. That does not come within the concept of fiscal autonomy because what we are taxing there is the income made by a subsidiary of this company upon repatriation of that income to the U.S. For instance, during the campaign, many people said that Section 936 was encompassed within the provision of fiscal autonomy which is false because the tax applied to 936 companies is a tax when they send the profits back to the U.S., which is a sensible thing for them to do.

You don't make profits and leave them outside. But when they are paid here, Congress has full power to tax those profits regardless of whether there is fiscal autonomy in Puerto Rico or not, which would be autonomy to provide for local taxes.

Mr. ROMERO-BARCELÓ. If Congress chose to impose Federal income taxes on the citizens of Puerto Rico, it could also do so?

Mr. CORRADA DEL RÍO. Absolutely.

Mr. ROMERO-BARCELÓ. So there is no fiscal autonomy?

Mr. CORRADA DEL RÍO. No.

Mr. ROMERO-BARCELÓ. So that is another false statement in the ballot; is that correct?

Mr. CORRADA DEL RÍO. It is correct.

Mr. ROMERO-BARCELÓ. Mr. Corrada, do we enjoy economic equality in terms of Federal programs with the rest of our fellow citizens in the 50 States of the Union?

Mr. CORRADA DEL RÍO. We do not. If we were to receive parity or equal treatment in existing Federal programs, Puerto Rico would stand to gain over \$3 billion in additional Federal funds, such as in the case of medicaid where we have a very strict cap; supplemental security income, from which we are totally excluded; AFDC under which we have a very serious cap, and the nutrition assistance program, under which we also have limitations vis-a-vis the food stamp program.

Mr. ROMERO-BARCELÓ. In order to have the guarantee of equal treatment in Federal programs, how could we obtain that?

Mr. CORRADA DEL RÍO. Through statehood. In my opinion. You see—

Mr. ROMERO-BARCELÓ. And also through incorporation?

Mr. CORRADA DEL RÍO. Incorporation would also allow for that, but incorporation would not give us the right to vote for the President and congressional representation unless there is an amendment to the Constitution.

Mr. ROMERO-BARCELÓ. At this point in time, incorporation would not give us the political rights?

Mr. CORRADA DEL RÍO. Right.

Mr. ROMERO-BARCELÓ. But it would give us economic equality?

Mr. CORRADA DEL RÍO. It would give us parity in Federal programs and of course payment of Federal taxes as well.

Mr. ROMERO-BARCELÓ. In your experience as Resident Commissioner here during eight years, does it seem feasible to you that in



the ballot the Commonwealth said that we will develop the Commonwealth through our specific proposals, brought into the U.S. Congress, we will propose at once extending the supplemental security insurance to Puerto Rico—SSI?

With your experience in Congress, do you think that sounds feasible that Congress will extend supplemental security income to Puerto Rico without it being incorporated or being a State?

Mr. CORRADA DEL RÍO. It seems to me that it would be very difficult. I did introduce in Congress bills to extend SSI to Puerto Rico while I was resident commissioner.

However, I believe that since that is a provision included in the Commonwealth's ballot, that it is the responsibility of Congress seriously and responsibly to let the people of Puerto Rico know whether or not they are willing to provide SSI. I would support any effort to extend SSI to Puerto Rico and for parity, but from our standpoint, we want parity, we want all the rights, but for us, that is coupled with also paying Federal taxes.

What they are saying is they want the best of two worlds, that they want to get Federal funds without paying Federal taxes. They call that the best of two worlds. They call that the best of two worlds, to be able to get Federal funds, but then go back home and beat your chest with nationalistic overtures saying that we are a separate nation, so that is the best of two worlds and that campaign was very effective.

Mr. ROMERO-BARCELÓ. Mr. Corrada, do you think that asking for parity and asking for more money and asking for more benefits without being willing to pay up, without being willing to subscribe to the responsibilities that other citizens in the Nation have in order to put the money into the Treasury, to be able to distribute those funds, is that a self-respecting type of attitude to come before Congress and ask and keep asking and asking without being willing to also contribute?

Isn't that a demeaning behavior and attitude? Isn't that a beggar's type of position? Doesn't that undermine our self-respect and our respect that we should demand from Congress and from the Nation?

Mr. CORRADA DEL RÍO. Some people call it jaiperia in Puerto Rico. J-A-I-P-E-R-I-A, for those who are doing the record. Some people call it jaiperia. The best of both worlds. Hey, listen, I can get out of you as much as I can, but I don't want to be equal to you. I want your money, but I don't want to be American. I call it effrontery.

Mr. YOUNG. Would the gentleman yield?

Mr. ROMERO-BARCELÓ. Yes.

Mr. YOUNG. I would like to suggest one thing. One of my interests in this is to see that we are achieving something. We have two bodies that we have to work with, the Senate and the Congress, and I can just about guarantee you that the things that I see on this plebiscite ballot haven't got a chance of a snowball in Puerto Rico.

It just isn't going to happen, and I think that should be perfectly clear. There is a lot of opposition to even considering this legislation on the Senate side, and I should not speak about the Senate. But if we are to achieve decolonization in the 1990's, we have to

be realistic because you can't have the best of two worlds. You are just dead in the water if we don't address the fairness of the issues which are relevant to the conditions of every Member in the Congress and Senate. It is something we have to consider.

Thank you for yielding.

Mr. ROMERO-BARCELO. Thank you. Thank you very much, Mr. Corrada.

Mr. DE LUGO. Thank you. And now the gentleman from Guam.

Mr. UNDERWOOD. I have no questions.

Mr. DE LUGO. No questions. The gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Chairman, just one question to the Secretary of State. And please correct me if I am wrong, the recent plebiscite that has taken place with the 48 percent for Commonwealth, 46 percent with statehood, and the remainder, I assume, for independence.

What do the people of Puerto Rico want now since the outcome of the plebiscite? Can you explain in your capacity as Secretary of State? Do you have a proposal on how we might resolve the situation since there has been no clear majority? What will be your suggestion to the Congress on how we might best resolve that?

Mr. CORRADA DEL RÍO. My suggestion is that Congress should seriously look into the proposals contained in the Commonwealth's definition. Congress should tell the people of Puerto Rico whether it is willing to extend SSI to Puerto Rico without our paying Federal taxes.

Congress should indicate to the people of Puerto Rico whether they are willing to revert the changes to Section 936 just adopted at the request of the Clinton administration in August of 1993. Congress should let the people of Puerto Rico know whether it is willing to remove the medicaid cap and the cap to AFDC, and Congress should let the people of Puerto Rico know whether at this time of globalization and regionalization markets it is willing to allow the people of Puerto Rico the right to impose tariffs on imports.

I think that these are serious questions the people of Puerto Rico, and particularly those that supported the Commonwealth, need a response from the Congress, and you should tell it as it is.

If these are feasible, they ought to be done. If they are not, then the people of Puerto Rico ought to know.

Mr. FALEOMAVAEGA. I note also with interest your treatment of the incorporation doctrine, which I think was very good because it did emanate from the Insular Affairs cases out of the U.S. Supreme Court, the fact that there was historically judicial legislation affecting the incorporation doctrine.

Am I correct in reading your statement that, despite granting U.S. citizenship to Puerto Ricans, the Congress has never really come out saying that Puerto Rico wasn't an incorporated territory because that was given to Alaska and Hawaii, but this was never done to Puerto Rico.

Mr. CORRADA DEL RÍO. And the opinions of Supreme Court back in the 1920s, in particularly the opinion of Chief Justice Taft in that case, is that as offensive as a separate but equal doctrine of the *Dred Scott* case.

Mr. FALEOMAVAEGA. Do you suppose that because of the historical situation, the fact that we are all unincorporated territories with the exception of Alaska and Hawaii, especially Puerto Rico, that the incorporation doctrine has a bearing. Is it your feeling as an unincorporated territory, in light of the Supreme Court cases, that these territories will never see the day they ever become a state?

Mr. CORRADA DEL RÍO. Well——

Mr. FALEOMAVAEGA. In other words, if you are not an incorporated territory, you will never become a State? That is the way I read the incorporation doctrine.

Mr. CORRADA DEL RÍO. There is an element of discrimination, even racial discrimination, inherent in that Supreme Court case just as there was racial discrimination in the separate but equal doctrine.

However, the fact is that regardless of what the Supreme Court intended in the insular cases, the granting of American citizenship to the people of Puerto Rico has created the hope, the will, in the people of Puerto Rico to have a permanent union with the United States, and that ultimately that permanent union can only be achieved through statehood.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

Mr. DE LUGO. Thank you. We have been joined by Congressman Peter Deutsch who is from Florida. He is a member of the Subcommittee on Foreign Affairs and has taken a keen interest in Puerto Rico having recently visited the Commonwealth.

Mr. DEUTSCH. I have no questions.

Mr. DE LUGO. He has been asked to join the committee as an observer, and we have extended that courtesy to him. We are very happy to have you with us today. Thank you, Congressman.

Thank you very much Mr. Secretary of State, very good to see you again.

Mr. CORRADA DEL RÍO. Thank you very much.

Just let me take 30 seconds to say that as I understand that you will be leaving Congress at the end of this Congress, that the people of Virgin Islands could not have had a finer, effective gentleman as it has had for so many years.

I had the pleasure of working with you while I was Resident Commissioner, and let me tell you in Puerto Rico you have many friends and certainly you have a friend in me.

Mr. DE LUGO. Thank you very much. I appreciate that very much.

The next witness speaks with special authority. As we have noted, Puerto Rico petitioned the Federal Government for commonwealth proposals through a plebiscite last year called by the island's government.

The proposals were put forth by the political party that advocates commonwealth, the Popular Democratic Party, and included a pledge that the party would pursue the proposals.

The governor has been quoted as saying it is up to the proponents of the commonwealth to seek Federal action on the proposals, and the legislature has also asked for a response. The Honorable Celeste Benitez has been designated by the new president of the Popular Democratic Party to represent the party.



The Honorable Celeste Benitez has—well, that is hyperbole and I hope you will excuse me. She not only appears for her party, but she testifies for the plebiscite's results as well. She also possesses another special credit for this committee. She is the niece of our former colleague, Jaime Benitez, a founder of the commonwealth and a very special friend. He was best man at my wedding and gave some magnificent toasts, and, please, Celeste, would you join us at the witness table.

Celeste Benitez is a former Secretary of Education of the Commonwealth of Puerto Rico, and I remember you in that role. It is a pleasure to welcome you and we will now receive your testimony.

#### **STATEMENT OF HON. CELESTE BENITEZ, REPRESENTING THE POPULAR DEMOCRATIC PARTY OF PUERTO RICO**

Ms. BENITEZ. Thank you very much, Mr. Chairman. Good morning Mr. Chairman and members of the committee. My name is Celeste Benitez and I appear before you today to testify on behalf of the Popular Democratic Party of the Commonwealth of Puerto Rico and its chairman, Hector Luis Avevedo, mayor of San Juan.

Before I begin, I would like to take a few seconds to extend to you, Mr. Chairman, the deepest gratitude on behalf of the people of Puerto Rico for the years that you have devoted to this Congress, for the many causes that over the years you have championed in these halls to help Puerto Rico and for your distinguished chairmanship of this subcommittee. Because we understand that you are leaving soon, please receive this testimony of our gratitude and appreciation as well as our very, very best wishes for happiness and continued success. We will miss you. You can be sure that we will miss you very sorely.

Mr. Chairman, I come before this subcommittee today with a dual mission. My first mission is to personally and officially inform the members of the subcommittee of the results of the November 14, 1993, referendum in which the people of Puerto Rico supported the commonwealth status, democratically defeating and rejecting the options of statehood and independence.

The will of the people of Puerto Rico was gauged, and with a loud and clear voice, the commonwealth option was favored.

My second mission today is to formally request the committee to remove all mention of Puerto Rico from H.R. 4442, a bill introduced by Congressman Young of Alaska to provide consultations for the development of Articles of Relations and Self-Government for insular areas of the United States.

The inclusion of Puerto Rico in this bill shows the greatest disregard both to the will of the people of Puerto Rico and the clear political preference they have recently expressed as well as to the President of the United States who has already acted upon the results of the November 1993 referendum.

Mr. Chairman, allow me to address my first objective. In order to understand the real significance of the commonwealth victory in the November 14, 1993, referendum, one must be fully aware of the historical and political context in which this election took place.

On January 17, 1989, the chairmen of Puerto Rico's three principal parties signed a joint letter to President Bush and the congressional leadership expressing the wish of the people of Puerto



Rico "to be consulted as to their preference with regards to their ultimate political status." It stated that:

The consultation should have the guarantee that the will of the people once expressed shall be implemented through an act of Congress which would establish the appropriate mechanisms and procedures to that effect.

That letter set in motion a series of intense negotiations which took place in Puerto Rico and in Washington over the next two years. Even though the U.S. House of Representatives approved legislation in 1991, thanks in great measures to your efforts, Mr. Chairman, the matter died in committee in the U.S. Senate, and thus a congressionally-sponsored referendum was never held.

The pro-statehood New Progressive Party won a landslide victory in Puerto Rico's 1992 general election, and the following year, the new administration approved a bill calling a referendum on the political status of the island.

Puerto Rico's legislative assembly, where the NPP now holds a two-thirds majority, passed the bill over the strenuous objections of both the pro-Commonwealth Popular Democratic Party and of the pro-independence "Partido Independentista Puertorriqueño."

One of the main objections the PDP presented was the fact that the referendum bill made no provision—no provision—for a runoff election, in case the winning option did not obtain an absolute majority in the referendum.

The law finally approved by the governor and the legislative assembly provided for a "referendum on the political status of Puerto Rico" to be held on November 14, 1993. The people of Puerto Rico were to choose between three different status options: statehood, commonwealth, and independence.

The results were as follows: commonwealth obtained 48.6 percent of the vote, a total of 826,326 votes; statehood obtained 46.3 percent; and independence 4.4 percent. There was an outstanding voter participation of 73.5 percent of all registered voters.

This was an impressive, against-all-odds victory for the Commonwealth. In 1992, the PDP had suffered an unprecedented political defeat when Dr. Pedro Rossello was elected governor by a margin of 76,000 votes, having obtained 49.3 percent of all ballots cast. This is the best showing ever that an NPP candidate for governor has ever achieved in our elections.

When Governor Rossello submitted the referendum bill in May of 1993, the Popular Democratic Party was at its weakest moment. By contrast, the pro-statehood forces were enjoying their brightest moment in that movement's history. It now controls the executive branch, both houses of the legislative assembly, and 54 out of a total of 78 municipalities on the island.

The NPP also held the upper hand in that all-important factor in modern-day elections: Money. The pro-statehood forces threw huge amounts of money into their November 1993 referendum campaign, resulting in what the NPP electoral commissioner openly stated in the press, that for every ad placed by the commonwealth forces in the media, the statehooders were placing five. Five to one.

Moreover, in the last two weeks of the referendum campaign, the statehooders unleashed a media blitz the likes of which Puerto Rico had never seen before. Yet in spite of the media blitz and in spite of the millions of dollars spent to intimidate and to confuse our vot-

ers, in spite of the fact that the NPP put all of the resources of the executive branch, of the House and the Senate, and of 54 municipalities, not to speak of the resources of the Office of the Resident Commissioner at the service of the statehood cause, in spite of all that, Puerto Ricans supported the Commonwealth and said no to statehood on November 14.

Again, this was an impressive against-all-odds victory which is eloquent testimony of the deep-rooted and enduring support for the Commonwealth among the people of Puerto Rico.

In this referendum, Mr. Chairman, in this referendum, a new generation of Puerto Ricans, those born after the creation of Commonwealth in 1952, and a new generation who had never had a chance before to express themselves on the issue of political status, massively went to the polls and reaffirmed our people's commitment to the Commonwealth option. Mr. Chairman, this mandate must now be obeyed.

In sum, Mr. Chairman, the November 1993 referendum was a solemn act of legitimate self-determination executed by the people of Puerto Rico. It was the outgrowth of a two-year-long legislative process in the Congress of the United States that began in 1989 and ended in 1991, in which all the parties involved expressed their respect and support for the democratically expressed will of the people of Puerto Rico.

The 1993 referendum is wholly consistent with the United States' official position of full support and respect for the right to self-determination of the people of Puerto Rico. This position has been repeatedly expressed by all U.S. Presidents since Harry S. Truman.

Therefore, the results of the 1993 referendum must be respected by all. It behooves the President and the Congress of the United States to take whatever steps may be necessary to implement the will of the people as it was expressed in the plebiscite results.

President Clinton has already responded to the Commonwealth victory by creating an interagency working group on Puerto Rico, cochaired by Ms. Marcia Hale, Assistant to the President and Director of Intergovernmental Affairs, and Mr. Jeffrey L. Farrow, the distinguished staff director of this subcommittee who will shortly occupy an important position in the U.S. Department of Commerce.

As soon as the interagency working group is ready, the Popular Democratic Party will start working together with them to implement the referendum mandate.

This brings me to my second mission, to comment on why Puerto Rico should not be included in H.R. 4442.

Let me begin by clearly stating, first, that the mere inclusion of Puerto Rico in this bill is an act of total disregard to the will of the people of Puerto Rico as it was formally and freely expressed only six months ago.

Creating another vehicle to deal with the island's status question, which is what H.R. 4244 does, is tantamount to saying, "Forget about the results of the 1993 referendum. Let's start the status proceedings all over again."

Second, this bill sends the Clinton administration the message that Congress is distrustful of their response to the referendum vote. The recently appointed White House interagency working

group must be given time to develop a set of proposals in accordance with the mandate of the people of Puerto Rico. H.R. 4442 is a clear digression from that mandate.

Third, in the context of Puerto Rico's present political situation, the bill's proposition is very dangerous and disruptive. It provides the government of the Commonwealth of Puerto Rico, now in the hands of the pro-statehood New Progressive Party, with the opportunity to initiate actions to subvert the will of the people of Puerto Rico, as it was expressed in last year's referendum.

It opens the floodgates once again to begin—from scratch—the terribly divisive status debate in Puerto Rico at a time when the people have already expressed their will. I must remind the subcommittee that this plebiscite took place in November 1993, almost six months to this day.

We Puerto Ricans want to preserve the Commonwealth status. In fact, Commonwealth is the only status formula—the only status formula—which has consistently received the backing of Puerto Rican voters in referenda and in plebiscites since its creation was authorized by the U.S. Congress in 1950.

Conversely, every time that the option of statehood has been brought to a vote, Puerto Ricans have clearly said no to statehood. Furthermore, as you can see in the attached chart that illustrates voting patterns in the island from 1952 to 1993, and that appears as the last page of my testimony, neither pro-statehood parties nor their candidates have ever reached the 50 percent mark in general elections and plebiscites.

In conclusion, as a spokesperson of the Popular Democratic Party and of the winning formula in the 1993 referendum, I formally request that Puerto Rico's name be excluded from the list of insular areas considered under H.R. 4442.

Finally, Mr. Chairman, allow me to briefly address a point that I consider of the utmost importance: Why did the people of Puerto Rico favor the Commonwealth option during the 1993 referendum against all odds, in spite of the fact that the NPP designed both the time and the procedures of the referendum to favor statehood? Both the timing and procedures were a clear case of political cynicism and opportunism. In spite of that, why did Commonwealth prevail?

I am convinced that one of the main reasons why Puerto Ricans voted for Commonwealth and against statehood is because we want to continue to be Puerto Ricans. We voted for the Commonwealth because we want to retain our distinct Puerto Rican identity.

Our Spanish language, our customs, and our multiracial background are a beautiful blend of Indian and African and European blood and are evident to any casual visitor to Puerto Rico. We take pride in the distinctiveness of our literary, artistic, and musical traditions, unique within the larger context of literature and music and art of Latin America and the Caribbean.

We honor and we cherish our American citizenship, the unshakable legal and emotional bond that binds in permanent union Puerto Rico and the United States. Puerto Ricans have gallantly and abundantly shed their blood in all of the armed conflicts in which the United States has been involved throughout this century, from World War I to the most recent peacekeeping efforts in the streets of Mogadishu.



We cherish the values that have made America great: The passion for justice and equality, the commitment to democracy, not only as a form of government, but as a way of life. We have internalized those values and we have made them ours.

But we also want to remain faithful, faithful to our Puerto Rican identity, to the kind of nation that we have become, and to the culture that we have created on that beautiful Caribbean island which we call our "patria," our fatherland, our spiritual home.

That is what Commonwealth is all about: Retaining and nurturing our cultural identity, remaining unique, a different people, while bound in permanent union by very strong political and economic bonds to the United States.

In conclusion, Mr. Chairman, I respectfully request that this subcommittee acknowledge the results of the 1993 status referendum and that it join efforts with the people of Puerto Rico to help implement its expressed will.

To include Puerto Rico in H.R. 4442 is totally inappropriate in light of the referendum results. I trust that this subcommittee will honor the will of the people of Puerto Rico, excluding it from the text of H.R. 4442.

I thank you and all the other members of this subcommittee for this opportunity to be heard.

Mr. DE LUGO. Thank you.

[Prepared statement of Ms. Benitez follows:]



Testimony of

**CELESTE BENITEZ**

before the

**SUBCOMMITTEE ON INSULAR AND INTERNATIONAL  
AFFAIRS  
OF THE HOUSE COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES**

**WASHINGTON, D.C.  
MAY 24, 1994**

Good morning, Mr. Chairman and Members of the Committee. My name is Celeste Benítez and I appear before you today to testify on behalf of the Popular Democratic Party of the Commonwealth of Puerto Rico, and its Chairman, Héctor Luis Acevedo, Mayor of San Juan.

Before I begin, I would like to take a few seconds to extend to you, Mr. Chairman, the deepest gratitude on behalf of the people of Puerto Rico for the many years that you have devoted to this Congress, for the many causes that over the years you have championed in these halls to help Puerto Rico and for your distinguished chairmanship of this Subcommittee. Because we understand that you are leaving soon, please receive this testimony of our gratitude and appreciation, as well as our very best wishes for happiness and continued success. We will miss you.

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My first mission is to personally and officially inform the members of the Subcommittee of the results of the November 14, 1993 referendum, in which the people of Puerto Rico supported the Commonwealth status, democratically defeating and rejecting the options of statehood and independence. The will of the people of Puerto Rico was gauged, and with a loud and clear voice the Commonwealth option was favored.

My second mission today is to formally request the committee to remove all mention of Puerto Rico from H. R. 4442, a bill introduced by Congressman Don Young of Alaska "to provide consultations for the development of Articles of Relations and Self-Government for insular areas of the United States." The inclusion of Puerto Rico in this bill shows the greatest disregard both to the will of the people of Puerto Rico and the clear political preference they have recently expressed, as well as to the President of the United States, who has already acted upon the results of the November 1993 referendum.

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That letter set in motion a series of intense negotiations which took place in Puerto Rico and in Washington over the next two years. Even though the U.S.

House of Representatives approved enabling legislation in 1991, the matter died in committee in the U.S. Senate, and thus a Congressionally sponsored referendum was never held.

The pro-statehood New Progressive Party won a landslide victory in Puerto Rico's 1992 general election, and on the following year the new Administration approved a bill calling a referendum on the political status of the Island. Puerto Rico's Legislative Assembly, where the NPP now holds a two-thirds majority, passed the bill over the strenuous objections of both the pro-Commonwealth Popular Democratic Party and of the pro-independence "Partido Independentista Puertorriqueño". One of the main objections the PDP presented was the fact that the referendum bill made no provision for a run-off election, in case the winning option did not obtain an absolute majority in the referendum.

The law finally approved by the Governor and the Legislative Assembly provided for a "referendum on the political status of Puerto Rico" to be held on November 14, 1993. The people of Puerto Rico were to choose between three different status options: statehood, Commonwealth and independence. The results were as follows: Commonwealth obtained 48.6% of the vote (826,326 votes); Statehood, 46.3% (788,296 votes); and Independence, 4.4% (75,620 votes). There was an outstanding voter participation of 73.5% of all registered voters.

This was an impressive, against all-odds victory for Commonwealth. In 1992, the PDP had suffered an unprecedented political defeat when Dr. Pedro Rosselló was elected governor by a margin of 76,000 votes, having obtained 49.3% of all ballots cast.

When Governor Rosselló submitted the referendum bill in May of 1993, the Popular Democratic Party was at its weakest moment. By contrast, the pro-statehood forces were enjoying their brightest moment in that movement's history. It now controls the Executive Branch, both Houses of the Legislative Assembly, and 54 out of a total of 78 municipalities.

The NPP also held the upper hand in that all-important factor in modern-day elections: money. The pro-statehood forces threw huge amounts of money into their November 1993 referendum campaign. Numerous Political Action Committees were created for the purpose of channeling money into the statehood campaign, resulting in what the NPP Electoral Commissioner openly stated in the press, that for every ad placed by the Commonwealth forces in the media, the statehooders were placing five.

Moreover, in the last two weeks of the referendum campaign the statehooders unleashed a media blitz the likes of which Puerto Rico had never seen before. Yet, in spite of the media blitz, in spite of the millions of dollars spent to intimidate and to confuse our voters, in spite of the fact that the NPP put all the resources of the Executive Branch, of the House and the Senate, and of 54

81-721 135

municipalities at the service of the statehood cause, in spite of all that, Puerto Ricans supported Commonwealth and said "No!" to statehood on November 14. Again, this was an impressive, against all-odds victory, which is an eloquent testimony of the deep rooted and enduring support for Commonwealth among the people of Puerto Rico.

In this referendum, a new generation of Puerto Ricans -- those born after the creation of Commonwealth in 1952 -- who had never had a chance before to express themselves on the issue of political status, massively went to the polls and reaffirmed our people's commitment to the Commonwealth option. Mr. Chairman, this mandate must now be obeyed.

In sum, Mr. Chairman, the November 1993 referendum was a solemn act of legitimate self-determination executed by the People of Puerto Rico. It was the outgrowth of a two-year long legislative process with the Congress of the United States that began in 1989 and ended in 1991, in which all the parties involved expressed their respect and support for the democratically-expressed will of the people of Puerto Rico. The 1993 referendum is wholly consistent with the United States' official position of full support and respect for the right to self-determination of the people of Puerto Rico. As repeatedly expressed by all U.S. Presidents since Harry S. Truman.

Therefore, the results of the 1993 referendum must be respected by all. It behooves the President and the Congress of the United States to take whatever steps may be necessary to implement the will of the people, as it was expressed in the referendum results.

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Second, this bill sends the Clinton Administration the message that Congress



is distrustful of their response to the referendum vote. The recently appointed White House Interagency Working Group must be given time to develop a set of proposals in accordance with the mandate of the people of Puerto Rico. H.R. 4442 is a clear digression from that mandate.

Third, in the context of Puerto Rico's present political situation, the bill's proposition is very dangerous and disruptive. It provides the Government of the Commonwealth of Puerto Rico, now in the hands of the pro-statehood New Progressive Party, with the opportunity to initiate actions to subvert the will of the People of Puerto Rico, as it was expressed in last year's referendum. It opens the floodgates once again to begin --from scratch-- the terribly divisive status debate in Puerto Rico at a time when the people have already expressed their will.

We Puerto Ricans want to preserve the Commonwealth status. In fact, Commonwealth is the only status formula which has consistently received the backing of Puerto Rican voters in referenda and in plebiscites since its creation was authorized by the U.S. Congress in 1950. Conversely, every time that the option of statehood has been brought to a vote, Puerto Ricans have clearly said "No!" to statehood. Furthermore, as you can see in the attached chart that illustrates voting patterns in the Island from 1952 to 1993, neither pro-statehood parties nor their candidates have ever reached the 50% mark in general elections and plebiscites.

In conclusion, as a spokesperson of the Popular Democratic Party and of the winning formula in the 1993 referendum, I formally request that Puerto Rico's name be excluded from the list of insular areas considered under H.R. 4442.

Finally, Mr. Chairman, allow me to briefly address a point that I consider of utmost importance: why did the people of Puerto Rico favor the Commonwealth option during the 1993 referendum against all odds, in spite of the fact that the NPP designed both the timing and the procedures of the referendum to favor statehood?

I am convinced that one of the main reasons why Puerto Ricans voted for Commonwealth and against statehood is because we want to continue to be Puerto Ricans. We voted for Commonwealth because we want to retain our distinct Puerto Rican identity.

All analyses of the results of the November 14 referendum must take into account one inescapable and fundamental fact: culturally, Puerto Rico is a nation, a people with a strong, distinct and resilient personality.

Any definition of the term "nation" will state that it is a group of people who share all, or most, of the following characteristics: 1) residence in a common territory; 2) use of a common language; 3) possession of a common literary tradition; 4) descent from a common race, or a mixture of races; 5) observance and enjoyment of shared customs; 6) possession of a common history; 7) possession of a shared cultural tradition; and 8) adhesion to a system of shared values and a similar vision

of life that is expressed in a constitution.

It is immediately evident that the Puerto Rican people meet not just some, but each and every one of those characteristics that define a nation.

Take language, for instance. We Puerto Ricans speak the same language, Spanish. It is the richest and most important legacy of our Spanish ancestors. Our Spanish language is the most powerful sign of our common heritage, of our collective soul. It is because we sense that our Spanish language is, in the words of Unamuno, "the life-blood of our spirit" that we have held on to our vernacular so tenaciously and so forcefully throughout the whole of this twentieth century. The fact that today, after 96 years of American presence on our Island, the primary vehicle for communication in Puerto Rico is Spanish and not English, is not a coincidence or an accident, but rather a remarkable civic achievement.

Spanish is spoken in Puerto Rico because we have vehemently insisted on preserving our vernacular in the face of intense pressures to substitute it for the English language. These pressures were exerted until 1948 by the American Governors and the Commissioners of Education appointed by the U.S. Presidents, and by those Puerto Ricans who wished to convert the Island into a state of the Union. In spite of all those official intents to substitute English for Spanish as the dominant language on the Island, to this day, of the three general circulation newspapers which are published in the Island, only one, The San Juan Star, is published in English, and it enjoys a limited circulation, in comparison with El Nuevo Día and El Vocero, which each of which sells over 200,000 issues a day.

All ten local TV stations run programs transmitted almost exclusively in Spanish. All but three of the Island's 115 radio stations transmit their programming in Spanish. All regional newspapers, all weeklies, and all magazines published there, with only two exceptions, are published in Spanish. All American movies shown in local theaters carry Spanish subtitles. All legislative and judicial proceedings are conducted in Spanish, as are all government communications. We speak, we sing, we pray, we make love and we curse in Spanish, and we don't intend to change it.

Our customs and our multiracial background, a beautiful blend of Indian, African and European blood, are evident to any casual visitor to Puerto Rico. We take pride in the distinctiveness of our literary, artistic and musical traditions, unique within the larger context of the literature, music and art of Latin America and the Caribbean.

We honor and we cherish our American citizenship, the unshakable legal and emotional bond that binds in permanent union Puerto Rico and the United States. Puerto Ricans have gallantly and abundantly shed their blood in all of the armed conflicts in which the United States has been involved throughout this century, from World War I, to the most recent peace-keeping efforts in the streets of

Mogadishu.

We cherish the values that have made America great: the passion for justice and equality, the commitment to democracy not only as a form of government, but as a way of life. We have internalized those values and we have made them ours, too. But we also want to remain faithful to our Puerto Rican identity, to the kind of nation that we have become and to the culture that we have created on that beautiful Caribbean island which we call our "patria": our fatherland, our spiritual home.

That is what Commonwealth is all about: retaining and nurturing our cultural identity, remaining unique, a different people, while bound in permanent union by very strong political and economic bonds to the United States.

Finally, let me state that in Puerto Rico and the United States: The Quest for a New Encounter the late Puerto Rican historian and humanist Arturo Morales Carrión defined the challenge that the status of Commonwealth poses for both our peoples in the following fashion:

"Can the American Union admit a special form of relationship with a Caribbean cultural nationality, a different *patria-pueblo*, with its language, its ethos, its sense of identity? Although Puerto Ricans may learn English, the basic ties will not be a common vernacular language or a long historical and ethnic tradition. They will have to be sought elsewhere, in the common belief and loyalty to democratic values, in the common hope that there are meeting grounds of understanding, mutual interests and respect, beyond the frontiers of absorbing nationalisms. (...)

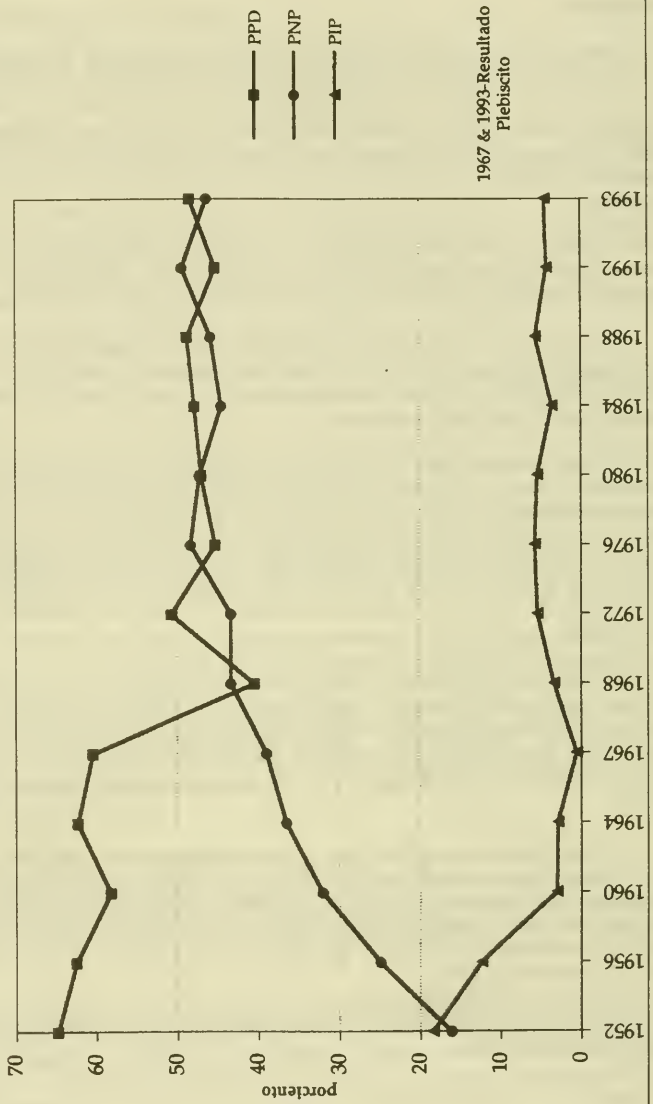
"These are problems that cannot be solved with a big stick... Bigness per se does not equate with greatness. Greatness has to do with the acceptance of a world of diversity and the search for ways to promote and respect personal and collective rights. It is greatness of purpose that in the end fully commands the loyalty of free men. It could become—let's hope it is not just a pious wish—the imperative of the future."

In conclusion, Mr. Chairman, I respectfully request that this Subcommittee acknowledge the results of the 1993 status referendum, and that it join efforts with the people of Puerto Rico to help implement its expressed will. To include Puerto Rico in H.R. 4442 is totally inappropriate in light of the referendum results. I trust that this Subcommittee will honor the will of the people of Puerto Rico, excluding it from the text of H.R. 4442.

I thank you and all the other members of this Subcommittee for the opportunity to be heard.

Chart- Electoral 1

## Comportamiento Electoral 1952-1993





Mr. DE LUGO. I believe the last section of the present legislation has language that is designed to exempt any existing process that is under way such as the process with Guam and the plebiscite in Puerto Rico. This legislation would only activate if those processes were not successful. Then this would be an option and this would be leverage for the government of the insular area to fall back on.

If it is made clear that this legislation shall not interfere with the ongoing process as the result of the plebiscite that was held last November in Puerto Rico, would you still insist on Puerto Rico being exempted from the legislation?

Ms. BENITEZ. Mr. Chairman, we are particularly concerned by section 4 of the bill that states that the process for developing the status of insular areas provided for this act shall be in addition to any other process for addressing issues in the relationship, et cetera.

This opens the door for a parallel process, for the government of Puerto Rico to initiate a parallel process to the one that we have already initiated. We think that that is extremely dangerous, disruptive, and that it does not serve the purposes of obeying the will of the people expressed in the referendum which I think all our efforts should be all about.

Let me also again say, I mentioned it very briefly in my written comments, but let me also address the following issue: On page 2 of the bill, it states that at the request of the government of an insular area, the President shall designate a personal representative to consult and develop in good faith with representatives designated by the government of the area, the government of the area.

In our case Puerto Rico is now ruled very briefly—I am sure the situation is going to change in 1996, believe me—but at present, Puerto Rico is ruled by a pro-statehood party. With this in the bill, nothing would stop Governor Rossello from appointing representatives to start a dialogue on the statehood process, statehood which was soundly defeated in the 1993 election.

So we believe that this bill is particularly dangerous for Puerto Rico for both reasons that I have now stated.

Mr. DE LUGO. Thank you very much.

The gentleman from Alaska.

Mr. YOUNG. Just a little clarification, Mr. Chairman. First, the Task Force on Puerto Rico was established by President Reagan, not President Clinton. It was continued by President Bush. That President Clinton has continued this interagency group for Puerto Rico and this legislation by no way or means shows any disregard for the President.

Remember, it is still the prerogative of the Congress under the Constitution to deal with territories.

And second, the witness fails to mention the statehood position was won in 1991 by 55 percent, so there is nothing permanent in Puerto Rico, I can tell you that right now.

Ms. BENITEZ. Could you repeat that?

Mr. YOUNG. It was 55 percent, was it not?

Ms. BENITEZ. Could you please repeat your statement, sir? I didn't get it.

Mr. YOUNG. I think everybody else did. I am saying the task force was set up by President Reagan, number one, and by the

way, it is the Congress under the Constitution, not the President, who has authority over the territories and we will discuss that.

Second, the statehood position won in 1991 by 55 percent. I notice you conveniently forget to mention that and just referred to 1993.

You know, I have some questions for you, if I may, for the witness. We acknowledge you as the leader in the Commonwealth movement, and you claim that Puerto Rico will receive all the Federal benefits and programs of a State without paying Federal taxes.

Exactly what Federal benefits and programs do you believe the people of Puerto Rico will receive without any new taxes?

Ms. BENITEZ. Before I answer your question, Congressman, let me clarify the December 1991 vote to which you referred. The December 1991 vote was not a referendum and people were not asked to vote on the preference for commonwealth, statehood or independence.

The December 1991 referendum was held on a proposed amendment to the Constitution of the Commonwealth of Puerto Rico in order to provide for specific dispositions in case Puerto Rico in the future were to celebrate an act of self-determination.

It was not by any means a vote on the status preference of Puerto Rico.

Mr. YOUNG. If I may, there were two positions taken. Commonwealth argued their position, as you just did in 1993; statehood argued their position. Statehood won at 55 percent.

Ms. BENITEZ. The positions were not—

Mr. YOUNG. We were not discussing it. I made that statement. You disagree with me; I disagree with you. And the gentleman commissioner, I will gladly yield to him, yes.

Mr. ROMERO-BARCELÓ. Mr. Young, what she is saying is not exactly correct because the referendum was viewed by the people of Puerto Rico definitely as the Commonwealth's position and the statehood position.

And the Commonwealth wanted to establish certain constitutional limitations to close the doors on statehood. And not only to close the doors on statehood, but to establish Spanish as the only language in Puerto Rico, as the only official language in Puerto Rico by constitution.

So it was clearly the pro-Commonwealth referendum which was for the purpose of establishing limitations and obstacles to achieving equality.

Mr. YOUNG. That was my interpretation, and though there is a difference of opinion, it was my interpretation.

Again, to go back to my question, what exact Federal benefits and programs do you believe the people of Puerto Rico will receive without paying new taxes?

Ms. BENITEZ. Let me again address myself to the referendum—

Mr. YOUNG. Answer my question, please.

Ms. BENITEZ. I will answer your question, but I would like to clarify for the record the expressions that have been just made because they are not totally true to facts.

The December 1991 referendum was not a vote on Commonwealth or statehood. It was a vote on amendments to the Puerto

Rican Constitution. Any interpretation of that vote as an endorsement of statehood simply is not supported by the facts.

Mr. ROMERO-BARCELO. Was it the Commonwealth party that supported the position?

Ms. BENITEZ. I will very gladly now address your question, sir.

Your question was, as I remember, would you please—

Mr. YOUNG. Which Federal benefits and programs do you believe the people of Puerto Rico will receive without taxes, any new taxes?

Ms. BENITEZ. Well, as you know, at present, Puerto Rico receives different sorts of aids without paying taxes. You are asking about new ways in which Puerto Rico would broaden the benefits that we receive from the Federal Government without paying taxes. On the ballot that Puerto Ricans voted on in the December 1993 referendum, the Commonwealth position required or signified that the Commonwealth supporters would be before the Congress in order to initiate negotiations, a dialogue with the Congress in order to address four specific points.

First, section 936. Second, the possibility of giving U.S. citizens in Puerto Rico access to the SSI program. Third, removing the cap from the nutritional assistance program in Puerto Rico, the food stamps. And fourth, using the protection that we now have for the coffee industry in Puerto Rico, applying similar provisions to other products of the Puerto Rican agriculture.

Now, those four propositions are the propositions that we will initiate a dialogue on, and that is the reason why the President named this interagency working force because we have to sit down and address those four points and see whether we can reach an agreement with the Congress and the Administration in order to address those four points which were contained in the ballot on which we voted last November 14, 1993.

Mr. YOUNG. Now, with all due respect, that was on the ballot, and I am not sure it was put on there with really fleshing out the results because you have to come before the Congress.

Ms. BENITEZ. Of course.

Mr. YOUNG. And you are not going to get any of those additional things without any new taxes. There is no way, as I mentioned before—and I apologize to the gentleman from Puerto Rico and the people of Puerto Rico, if you do have snow in Puerto Rico, I do apologize—but there is no way that is going to get by this Congress.

We are faced with some very dire budget restraints right now in all of our programs, and I can feel it in Congress over all matters affecting every other State. There has to be a fairness doctrine here.

You cannot have both worlds. I am lecturing now, but just keep that in mind. It is not going to happen. And if you propose it, I want to know who you are going to propose it to.

Ms. BENITEZ. That is your position, Congressman.

Mr. YOUNG. It is the position of this Congress.

Ms. BENITEZ. That is your position.

Mr. YOUNG. That is the position of this Congress, I can assure you.

Ms. BENITEZ. That is your position, and we will try to initiate a dialogue with the Congress in order to reach an agreement on that



point. It might not be easy to reach an agreement, but on the other hand, it may not be impossible either.

Mr. YOUNG. I will wait for the next round of questions because apparently someone needs to learn how this system works up here.

Mr. DE LUGO. All right.

The gentleman from Puerto Rico.

Mr. ROMERO-BARCELÓ. Now, you stated that the people of Puerto Rico made a decision November of 1993 in the plebiscite. Was 48 percent a majority?

Ms. BENITEZ. Of course it was.

Mr. ROMERO-BARCELÓ. Is that a majority? Do you understand what a majority is, or is that plurality?

Ms. BENITEZ. It is a majority as it was defined in the law that was in the plebiscite law referendum lawsuit that was proposed and approved by the party to which you belong, Commissioner.

Mr. ROMERO-BARCELÓ. What was the definition of that majority? You said defined in the laws. How? As a matter of fact, in the original bill that was sent to the House and the Senate in Puerto Rico, was there not a statement which whoever won, irrespective of the total amount of votes, that the government would then pursue the decision made by the people of Puerto Rico, and then who objected to that?

Who asked that that be eliminated? Wasn't that your party? Wasn't it the president of your party and also Artures Herrera who testified against that?

Ms. BENITEZ. Of course. Because the chairman of my party and the mayor of the leadership of Puerto Rico of the Popular Democratic Party insisted that the party who won the plebiscite be defined as the proposition which obtained a majority, a 50 percent plus of the vote.

That was the position which the Popular Democratic Party represented when the bill was in discussion, both before the commissions and on the floor of both the House and the Senate.

Our position was that we wanted the winning proposition to be defined as that proposition which obtained 50 percent or more of the votes in the plebiscite. It was your party, Commissioner, it was your party which was the party that did not go on to accept that position. It was your party that defined the winning proposition as a proposition which had obtained a plurality of the votes. That is the way the law is written by your party, sir.

Mr. ROMERO-BARCELÓ. But the law was written whoever won by a plurality that the winning proposition would be brought to Congress and pursued in Congress, and then it was your party who insisted that there will be a runoff—

Ms. BENITEZ. Right.

Mr. ROMERO-BARCELÓ [continuing]. And would have to be a majority.

Ms. BENITEZ. Right.

Mr. ROMERO-BARCELÓ. And therefore that you did not support the second part of the coming over here with just whoever won, so that was eliminated, so just the plebiscite turned out to be only a consultation because there was nothing in the law which proposed what was to be done afterwards; is that not correct?

Ms. BENITEZ. No, that was—



Mr. ROMERO-BARCELÓ. I recommend that you read the law again because that was clear. That was eliminated from the law at your party's request, so it was only a result of the plebiscite.

There are other people that can probably have copies of law, and they will be testifying. So to say something that is not correct would just mislead the panel.

Ms. BENITEZ. No, sir. Of course that is not my intent, to mislead this panel. The reason why I have come here before you is in order to clarify the issues and to give the panel the facts which can best lead to these decisions.

Mr. ROMERO-BARCELÓ. The fact is there is nothing in the law that said this had to be pursued. However, the governor has indicated, and so has Mr. Baltasar Corrada, the government pursued the things that you promised in the ballot.

And you are beginning to hear that those things will not be favored in the Congress unless we are ready to pay our share and unless we are ready to assume our responsibilities, which is only natural.

Ms. BENITEZ. There is nothing in the ballot. There was nothing in the ballot in the Commonwealth's definition that said that we were not willing to pay our share.

You can read the definition from the beginning to end, Mr. Commissioner, and there is nothing—

Mr. ROMERO-BARCELÓ. Let me read this then: The Commonwealth seeks fiscal autonomy for Puerto Rico. What does that mean?

Ms. BENITEZ. Fiscal autonomy, as you very well know, means that Puerto Rico is exempt from Internal Revenue laws passed by the Congress of the United States.

Mr. ROMERO-BARCELÓ. And other taxes?

Ms. BENITEZ. And some other taxes.

Mr. ROMERO-BARCELÓ. No, fiscal are taxes. Fiscal autonomy means that you are exempt from taxes.

Ms. BENITEZ. It also means, as you very well know—after all, you were the governor of the Commonwealth of Puerto Rico for eight years. As you know, fiscal autonomy also means that Puerto Rico has the right to design its own tax structure without interference from the Congress of the United States.

Mr. ROMERO-BARCELÓ. It has no interference with establishing our structure.

Ms. BENITEZ. Our tax structure.

Mr. ROMERO-BARCELÓ. There is no interference.

Ms. BENITEZ. Puerto Rico passes its own laws regarding its tax structure without inference from the Congress of the United States.

Mr. ROMERO-BARCELÓ. Does that mean there is no interference with our tax laws, what about the 936?

Ms. BENITEZ. That is not a law of the Commonwealth of Puerto Rico, Commissioner. It is the Internal Revenue Code of the U.S. Congress. And only Congress has the authority to deal with that. The Puerto Rico government has nothing to do with it.

Mr. ROMERO-BARCELÓ. That interferes with our authority to tax, doesn't it?

Ms. BENITEZ. Section 936?

Mr. ROMERO-BARCELÓ. Yes.

Ms. BENITEZ. Section 936, as you very well know, even though you are an avowed enemy of the 936 situation, but—

Mr. ROMERO-BARCELÓ. I am an avowed enemy of having the ones that are wealthier receive tax exemptions and make the poor suffer as a result. In this Nation, we have a socioeconomic concept that we tax the people who have the money in order to run the government and also to give benefits to those that cannot afford them and who need some help to improve their lot in life.

In Puerto Rico, it so happens that the Federal policy is turned on its head, and we give tax exemptions to the wealthiest and then we give penalties to the poor because the wealthy do not pay. That is the situation. That is why I am against the tax exemptions.

Ms. BENITEZ. I know that was the position you held in your famous pamphlet, "Statehood is for the Poor," which you authored some years ago, but in which you stated that statehood was good for Puerto Rico because of the several benefits that Puerto Rico poor would be receiving.

Mr. ROMERO-BARCELÓ. Among other things because I always made it plain that the most important thing is the political rights.

Ms. BENITEZ. But going back to 936, as you know, it has been the basis for Puerto Rico's industrialization program, and as the basis for Puerto Rico's industrialization program it has given Puerto Rico the opportunity to attract industries from Europe, from the United States, from—

Mr. ROMERO-BARCELÓ. Section 936 has nothing to do with Europe, nothing to do with Europe.

Ms. BENITEZ. There are several, as you very well know, European concerns, especially from the pharmaceutical industry, that have been established in Puerto Rico that are—

Mr. ROMERO-BARCELÓ. But they don't benefit from the 936.

Ms. BENITEZ [continuing]. Taking advantage of the tax structure in Puerto Rico. That has been the basis of Puerto Rico's industrial development, and industrial development means jobs, and industrial development means a higher standard of living for Puerto Ricans, and industrial development means that young Puerto Rican graduates from our schools can find in Puerto Rico jobs where they can stay there and contribute to the well-being of Puerto Rico. That is the importance of 936, jobs and better living conditions.

Mr. ROMERO-BARCELÓ. In other words, only by the grace of Congress and the generosity of Congress on 936, can we in Puerto Rico attract industry. It is not because we have people who are productive. It is not because we have happen to have also lower wages. It is not because we have excellent quality controls.

It is not because we have an ideal geographical position which is closer to the raw material from Africa and the raw material from South America. It is not because we the people of Puerto Rico have something to offer.

It is because Congress gives us—if Congress did not give us tax exemptions, we would be in the dumps.

Ms. BENITEZ. Please don't put words into my mouth.

Mr. ROMERO-BARCELÓ. You are saying that.

Ms. BENITEZ. No.

Mr. DE LUGO. Let the Chair make this statement. I had hoped through this hearing we would focus on the legislation that is be-

fore us and the process and the opportunity that has been offered to all of the insular areas, and I had hoped that we could avoid, if humanly possible, but I knew better, a debating again of the plebiscite that just took place in November.

As to the exchanges between these two magnificent Puerto Rican leaders, I declare it a draw. I declare it a draw. If one of you speaks, you will be ahead and then if Celeste speaks, she will be ahead.

Mr. ROMERO-BARCELÓ. Mr. Chairman, I want to say it is impossible not to have a debate when we start to tackle the issue of status in Puerto Rico because we are talking about the political rights of the people.

We are talking about the group in Puerto Rico who says that they don't want political rights, they want to be U.S. citizens.

Mr. DE LUGO. Carlos, you and I talk. I am sitting here as the chairman, and I am trying to be neutral. I have tried my best to be neutral, to be friends of all of the people of Puerto Rico.

The Chair's strongest passion is fairness and justice to all the people of Puerto Rico. I have the utmost respect for you, Carlos, as a leader of the statehood movement, as a very courageous, strong and powerful leader.

I have the utmost respect for Celeste Benitez. I have the utmost respect—

Mr. ROMERO-BARCELÓ. I do, too.

Ms. BENITEZ. We are good friends, Mr. Chairman.

Mr. ROMERO-BARCELÓ. I have nothing against her personally, nothing.

Mr. DE LUGO. In saying that, I know that the two of you and the independenistas or the magnificent leaders who are well equipped to defend your position and your point of view, each of you. We could have you debate this all day for 24 hours before this committee, and there would be no resolution.

Puerto Rico has debated this issue for almost 100 years and there is no resolution. But you have had a plebiscite and the people have spoken, and I think we should try to move forward.

Mr. ROMERO-BARCELÓ. That is why we have to define what has been spoken, because the representation here is completely different from what has happened. That is why we have to show it.

If she misrepresents the results, Mr. Chairman, we have to make sure that those results are not misrepresented.

Mr. DE LUGO. I have sat in the chair and I don't want to have to get in the middle of it. I have heard each side, as all of us have.

We are going to present our political position in the most attractive manner, and we are going to answer the question in a manner that shades it to our favor and to our side, so I have heard that from both sides here, very well expressed.

I am a person who makes it his business to be aware of what is going on in my neighbor, Puerto Rico. I am aware of what some of these referendums were and what took place, and what the positions are of the various players and if every time that one of the speakers shades it just a little bit and we have to challenge that and then, we will be here all day.

What I am saying is that this legislation is not put forward to respond to the plebiscite. The committee has withheld any hearings



on the plebiscite to give the President an opportunity to respond so that negotiations can begin because the legislature of Puerto Rico passed a resolution which says, pursuant to the right to petition guaranteed by the First Amendment of the Constitution of the United States, it is requested on behalf and in representation of the people of Puerto Rico that the 103rd Congress of the United States of America express itself concerning the principles which define the commonwealth formula as submitted to the people of Puerto Rico in the plebiscite held on November 14, 1993.

Now, this is a request of the Congress, but the reality of the matter is that the Congress, if we are going to respond in a constructive way and in a way that will help the people of Puerto Rico, we need to have consultation with the Administration, with the President, and the President has to be involved.

And it is for that reason that the President has made a decision, and they are presently working on putting together a group that will be in a position to negotiate with the people of Puerto Rico.

Mr. ROMERO-BARCELÓ. Mr. Chairman, let me for the record say that I sat down and talked to Marcia Hale, the governmental relations assistant to the President, and discussed at length what it is that is happening.

And what the President has asked us only that Marcia Hale, not on the plebiscite, but since last year before the plebiscite was designated by the President, deal with all matters regarding Puerto Rico as she deals with the matters of all States. In other words, maintaining Puerto Rico at a level of a State in terms of the White House.

Now, when the hearings were going to be held, your hearings, then they asked for some time to study it and to put a group together because they wanted to have a group to deal with and advisors to deal with policy regarding Puerto Rico, but it is not any specific instructions to address itself to the plebiscite or such.

And Jeff Farrow is going to be a part of that group. They don't even want to have it designed as a task force or a working group in particular. It is just a very informal thing, people who have some input into the President. That is what I have been told.

I want to put that on the record because it is different from the concept that has been set forth here that we are waiting—if we all sit here waiting, we are going to be waiting very many, many years because there is no attempt to do that as such.

Mr. DE LUGO. My understanding of the process that is being undertaken in the White House is to put together a group that will be in a position to respond both to Puerto Rico and to the Congress as to the Administration's position on issues related to Puerto Rico. That is it.

That includes the plebiscite or any other issue where you have a group that is knowledgeable on the concerns and the needs of Puerto Rico. If there is anything we need in any Administration here in Washington and you know this, governor, it is a group, a group in an Administration, whether it is a Republican administration or a Democratic administration, that has some knowledge of Puerto Rico and some knowledge of the needs of Guam and some understanding of American Samoa and the uniqueness of American Samoa and some big understanding of the Northern Marianas and



Saipan, and some understanding of Palau and the free association that this great Nation is going to enter into with the fine people of Palau.

And we all know that that has been sadly lacking to date.

Mr. ROMERO-BARCELÓ. That is for sure, but there is no such thing—

Mr. DE LUGO. That was a hell of a speech, wasn't it?

Mr. ROMERO-BARCELÓ. Very good.

Mr. DE LUGO. So don't get me into it, Carlos.

Mr. ROMERO-BARCELÓ. That is why we have to talk about it. The ballot is very simple. The ballot, the Commonwealth ballot, just a few things, let's address ourselves to them.

Mr. DE LUGO. No. I am not going to. I don't have a vote in the plebiscite of Puerto Rico. The people of Puerto Rico have already voted, and we are now waiting to hear the Administration's response.

Now, let the Chair recognize the gentleman from Guam now, for a moment.

Mr. UNDERWOOD. As inevitably happens in hearings of this nature, Puerto Rico becomes the 800-pound gorilla and takes over the issue.

And like you, I don't have a vote in the Puerto Rican plebiscite and based on what I have heard, I don't want a vote.

But suffice to say that this is a serious issue for all of us, and for the remainder of us as serious as it is for Puerto Rico, and some areas have a great deal more consensus than others. And I think certainly in the case of Guam and I don't know, Mr. Faleomavaega will speak to the case of American Samoa, certainly in our case, we don't have unanimity, but we certainly have more of a consensus to move in this direction.

I am interested in some of the points that you have raised and you have raised them very forcefully. In your testimony, you indicated you made a very strong and stirring statement about maintaining a Puerto Rican identity in terms of your own cultural history in terms of the Spanish language.

Given those statements, why would your party find it objectionable to this specific legislation, for example, if it allowed the concept of free association which would seem to me to facilitate exactly what you are talking about, which is the maintenance of a Puerto Rican identity, but a strong sense of separation and perhaps some more balanced partnership with the United States, recognizing the sovereignty of the Puerto Rican people.

If this legislation were elastic enough to accommodate that, would you still be critical of it?

Ms. BENITEZ. Yes. Let me address myself to that point, Mr. Underwood.

One of the main reasons why we oppose this legislation is it will open again the whole can of worms, as you have seen this morning, as the chairman has so eloquently addressed himself to that point. It will open up a whole can of worms. That is the status debate in Puerto Rico.

As you may know, we Puerto Ricans reinvented the Tower of Babel, only that we call it the Status Debate because it finally comes out to the same thing of going over the same old arguments

over and over and over again. We have been dealing with that uninterruptedly since 1989.

The process ended in 1993 with the status plebiscite. Our position is this is the will of the people. What we now have to do is not ask what Puerto Ricans want in terms of a status formula. The people spoke on November 14. Let's implement that mandate. That is our position on this bill.

Mr. UNDERWOOD. So your position is that it is over, that there will never be another plebiscite. Might there be not some opportunity again to reexpress this?

Ms. BENITEZ. But not six months after having held that plebiscite last November. What we feel is that it took 26 years since we had a plebiscite in 1967, and it took 26 years until we held this other plebiscite in 1993.

I am not saying that we should wait another quarter of a century to hold another plebiscite, but I do feel that having spoken as clearly as a Puerto Rican people spoke last November, remember we had a 73.5 percent voter participation. That is extraordinary. You don't get that kind of voter participation here or anywhere on a plebiscite.

Having spoken so clearly, I think that the step that we have to take now is not to open again the whole debate, but to implement that mandate, to obey the mandate that the people of Puerto Rico gave on November 14, 1993.

Mr. UNDERWOOD. Well, I don't wish to get involved in what is meant by a clear mandate. Just by way of illustration, in the case of Guam, we had over 80 percent participation and in the case of Guam where we really ran into—we offered several options and as they ran them through, we came down to a choice of commonwealth and statehood as defined on Guam, and the mandate for commonwealth was 80 percent.

Now, declaring an electoral victor in a race for political position, I think, is far different in nature than it would be to develop a consensus for the direction of a society, and so it would seem to me that I would hesitate to call anything like this a mandate.

You know, the arguments that you have given and the arguments that in fact have been given by all sides apply to the election of President Clinton. I mean people will say, well, he is President, but he wasn't elected by a majority of the people or the majority of people actually voted against him, and what we get into is a whole series of discussions about what is the meaning of mandate and what is the meaning of consensus.

But in the case of the President, it is clear that he won because there is a defined process through which that is defined, who actually won the presidency. In this case, we don't have a defined process through which we can determine in fact what is a given direction and how to go through it, except a series of interpretations about the results of the balloting. In this regard, I still think that there is, even though I had indicated my strong objections to certain parts of this legislation. If indeed it were elastic enough to include things like concept of free association and independence and other alternatives, then there is something to be said, if not for the alternatives that are given and if not for some of the weaker points—and there is not enough recognition for the United Nations'

determination of what constitutes decolonization—then at least for identifying some of the process that people may use and, too, share very much. Let there be no misunderstanding, that I feel that Guam is on a track. We feel very strongly about that, and we don't want anything to dissuade from that, and we will try to work to make sure that that is understood in the context of this legislation.

And just one last comment. You said that you don't want to open a can of worms, I think it has been opened already.

Mr. DE LUGO. I thank the gentleman.

Now, the gentleman from American Samoa, Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I am totally edified by the dialogue that has just been pleaded by our Governor Romero-Barceló and also Madam Celeste Benitez. As I understand, the last plebiscite that had that in place in Puerto Rico was in 1967.

Ms. BENITEZ. That is right, sir.

Mr. FALEOMAVAEGA. And the Commonwealth party won by a majority of 67 percent of the vote.

Ms. BENITEZ. That is right.

Mr. FALEOMAVAEGA. Since that time, the only plebiscite that I am aware of was last year's plebiscite, this time not a mandated majority, but by a plurality. I am not going to get into the politics.

I wanted to ask you: The fact that it was won by plurality, was there any consideration of the Commonwealth party that perhaps there has got to be some finality where a majority has to be shown by a runoff election or some form of referendum so that a clear statement could be made on behalf of the Puerto Rican people to the Congress and to the American people as to where exactly the Puerto Rican people's desires lie. Suggesting that there would be another plebiscite with all the three parties participants, and that perhaps a runoff after that if there is no majority?

I wanted to ask Ms. Benitez if her party is favorable to that option.

Ms. BENITEZ. Well, as I said earlier in remarks, Mr. Faleomavaega, the position that the Popular Democrat Party, pro-Commonwealth party, to which I belong, in the discussion on the plebiscite deal was that that bill should contain the disposition for a runoff election in case no clear majority, majority in the sense of 50 percent plus, emerged from the vote.

The pro-statehood, NPP party, opposed those efforts. We insisted again and again and again, and they would not entertain that amendment to the law. I am sure that if we had had a runoff election after the November 14 referendum, the Commonwealth would have come out clearly a winner, but it could not be done because the NPP took all strenuous efforts to keep the runoff election from the bill.

Let me tell you that all they wanted, the pro-statehood forces in Puerto Rico, all they wanted to do was force an election. Last November, when the Popular Democratic Party, the pro-Commonwealth party, was at its weakest point, they wanted to force an election to provoke a simple majority for statehood. Just one, two votes would have been enough, and then the plans were from the pro-statehood movement to come here because the Congress, and they have already set us out of a budget of \$50 to \$60 million to



initiate a huge massive lobbying effort to get Congress to grant statehood to Puerto Rico.

That was their plan; that was their design. That is why they did not entertain the possibility of a runoff election. Of course, they miscalculated the situation. They miscalculated the support that Commonwealth has in the people of Puerto Rico, and they lost the election.

Mr. FALCOMA. Madam, I have one more question.

Now, you stated that you are opposed to the provisions of this bill and that it is inappropriate in view of the plebiscite that has taken place.

Do you feel that you consider Puerto Rico not as a territory, something more than a territory of the United States. Is this the reason? I guess in your definition of Commonwealth you are somewhat in between being a sovereign country with a distinct culture and distinct everything.

Is this your reason for opposition to the legislation? You don't consider Puerto Rico a territory, but a Commonwealth—you are not part of the United States; is that your suggestion here?

Ms. BENITEZ. Of course, since Puerto Rico is neither a colony of the United States nor a territory of the United States, Puerto Rico is a Commonwealth, which is a distinct constitutional creation from all those other things.

So we do not agree with the expressions which have been made here before that Puerto Rico is a colony. It definitely is not.

Mr. FALCOMA. Thank you, Mr. Chairman.

Mr. DE LUGO. I thank the gentleman from American Samoa.

The gentleman from Puerto Rico has indicated that he has some additional questions.

Mr. ROMERO-BARCELÓ. Thank you, Mr. Chairman.

Ms. Benitez, what is your definition of democracy?

Ms. BENITEZ. A government of the people, for the people, and by the people.

Mr. ROMERO-BARCELÓ. It does not include the right to vote and the right to participation, the right to representation as part of the democratic process?

Ms. BENITEZ. Mr. Chairman, here we go again.

Mr. ROMERO-BARCELÓ. Please, I want to be clear for the record.

Ms. BENITEZ. Of course, of course.

Mr. ROMERO-BARCELÓ. You believe in that?

Ms. BENITEZ. Of course.

Mr. ROMERO-BARCELÓ. You believe in representation, you believe in the right to vote. Explain to me because I have always been at a loss to understand how it is that you support the Commonwealth and you deny yourself and your children the right to vote in the Nation that you say you want to be citizens of.

How can you believe in democracy, deny yourself the right to vote, deny it to your children and to your children's children, and say that you want to be citizens of that democracy, why? Explain.

Mr. DE LUGO. Before you answer that, let the Chair say that the definition—I mean to defend the Commonwealth, that is not part of the hearing today.

Mr. ROMERO-BARCELÓ. It will be my last question. This will be my last question.



Mr. DE LUGO. Well it is inappropriate for this hearing. This is a debate on the political status; that takes place in a plebiscite and takes place back and during a campaign. It really doesn't help, and we have got a lot of witnesses here, and I have the spokesman for the Independentista Party waiting to testify and a lot of other witnesses, and I know that this is very stimulating for both of you, but——

Mr. ROMERO-BARCELÓ. I think the people of Puerto Rico ask themselves that question, many people do, and they would like to hear an answer from the Secretary General.

Mr. DE LUGO. I am sure that question will be asked of the Secretary General during the upcoming campaign, and that she will answer it at that time.

But I don't think that this is the place, and we have to really move forward with this hearing, with all due respect to my friend in Puerto Rico.

Mr. ROMERO-BARCELÓ. Mr. Chairman, you are the rule, whatever you decide.

Mr. DE LUGO. I try to do it gently.

Mr. DEUTSCH. Mr. Chairman.

Mr. DE LUGO. Yes.

Mr. DEUTSCH. If I might, if I can just ask a couple of questions that are related to the legislation questions?

Mr. DE LUGO. I beg your pardon?

Mr. DEUTSCH. If I might ask just a couple of questions related to this?

Mr. DE LUGO. Let me say that some other Representatives had asked to attend this meeting and to actually participate, and the Chair ruled against participation because they were not members of the committee and extended, rather, an invitation as observers; otherwise we would really get into it.

So there are no further questions.

Mr. ROMERO-BARCELÓ. Well, just my question.

Mr. DE LUGO. Well, I think that was a draw. And it has been a pleasure having you before the committee and please give my love, it is not often that a chairman extends love, but I do, to Dohaney when you see him next, the love and affection of this chairman to that great Puerto Rican.

Ms. BENITEZ. You can be sure that the affection comes from this side very much, too.

Mr. DE LUGO. Thank you very much. And I want to thank the gentleman from Puerto Rico for his good graces. I mean it.

He took that in good spirit and the Chair greatly appreciates it.

Our next witness is representing another of Puerto Rico's major status-based political parties, the Independence Party. He is a distinguished professor, distinguished professor, Manuel Ordriñez-Orellana. He is the party's representative on the Puerto Rican Elections Commission, and he is one of its primary contacts with the Federal Government.

He is also an expert on international law. He has been a great help to this committee over the years. And it is a pleasure to have you before the committee, professor.

**STATEMENT OF MANUEL RODRIGUEZ-ORELLANA, ESQ.,  
REPRESENTING THE PUERTO RICAN INDEPENDENCE PARTY**

Mr. RODRIGUEZ-ORELLANA. Thank you, Mr. Chairman.

Before I begin, I wanted to save until last my congratulations to the Chair for having held this committee meeting and hearing so promptly. But I want to start by congratulating the chairman not for his prompt attention to this bill, not for his consistency in trying to find a way in which we can begin to deal with Puerto Rico's colonial problem, but for having allowed us the opportunity of a sneak preview of the 1996 race for resident commissioner in Puerto Rico fully three years in advance.

Mr. Chairman, members of the subcommittee. I am here to present the position of the Puerto Rican Independence Party with regards to this bill, H.R. 4442, which was introduced by Congressman Don Young on Tuesday, May 17 of this year, in substitution of H.R. 3715, his previous bill on a tangentially-related subject. So I will address my remarks specifically to this bill H.R. 4442.

This bill purports, in Congressman Young's words upon introducing the bill, and I quote, "To establish a mechanism for full self-government and political empowerment of U.S. territories," and the quote continues, "consistent with international decolonization and the principles of self-determination."

According to Congressman Young, this new legislation "has been broadened in scope" in order to enable insular areas "to utilize the same mechanism for options other than incorporation," which he expressly recognizes "could be independence or free association."

He also proposes a timetable according to which the proposed Articles of Relations and Self-Government for insular areas of the United States, again I quote, "would be submitted to Congress not later than December 31, 1998, to provide"—and I emphasize this part—"to provide time for the Congress to enact implementing legislation before the end of the decade, which"—he recognizes—"has been named the 'Decade for the Eradication of Colonialism' by the United Nations."

We welcome Congressman Young's initiative and support his intent to eradicate colonialism from the future history of the United States. However, this bill must be amended in a very significant way to reflect his intent. These amendments are indispensable if we are going to support this bill, and indispensable for this congressional effort to chart the path which the United States must take in order to overcome the mentality of the Cold War era and to live up to its legal and constitutional obligation to decolonize.

While I shall not go into the specific legislative language proposals, I would of course be willing to cooperate with staff in order to achieve these ends.

First, the intent to decolonize is not only commendable, it is a legal and moral obligation which the United States assumed at least since 1945, when it became a sponsor and a signatory of the United Nations charter. The time is past due for congressional compliance to dispose of the territories like Puerto Rico over which Congress exercises sovereignty by virtue of the territory clause of the U.S. Constitution.

Furthermore, under modern international law, which according to the U.S. Supreme Court is part of the U.S. law, the right of peo-

ples to self-determination and independence is inalienable. It is part of the *jus cogens*, a peremptory norm of international law that admits of no derogation by way of local or special custom, or by any domestic constitutional provisions or acts of legislative, executive, or judicial branches of governments.

Congressman Young's purpose must therefore be understood as an effort to bring U.S. conduct with regard to its overseas possessions, which include Puerto Rico, into compliance with international norms. The procedural means for decolonization under international law have been recognized by U.N. General Assembly Resolution 1541 of 1960 to include, of course, independence, free association, and integration.

However this can in no way be interpreted to allow the derogation of substantive decolonization law represented by the U.N. General Assembly Resolution 1514 of that same year; namely, a people's inalienable right to self-determination and independence.

Puerto Ricans are a people. In fact, Puerto Rico was already a nation long before the United States acquired it by conquest in 1898. If any of the territories still governed by the territory clause of your Constitution fit the traditional profile of territories which became States of the Union, Puerto Rico clearly is not one of them.

In the case of Puerto Rico, therefore, integration as an incorporated territory would not be a decolonizing option. It would not even extend any additional fundamental rights under the U.S. Constitution; but incorporation would extend the obligation to pay Federal taxes in full under the uniformity clause of your Constitution.

Nor would integration as a State of the Union be a decolonizing option for us. Puerto Rico would continue to be a Latin American Nation of the Caribbean. As a State, however, this Caribbean country to which you would have granted congressional representation would continue to be Spanish-speaking and poor; but with higher unemployment and ever more economically dependent as a 1990 Congressional Budget Office study tends to show.

In either case, a state, or as an incorporated territory, the Puerto Rican people's right to self-determination and independence would be no less than as an unincorporated territory or commonwealth. Clearly then, as a state, Puerto Rico would have the right to secede.

As a former professor of international law here in your country, I must say that this position has been correctly recognized not only by legal scholars in the international law field, but by Resident Commissioner Carlos Romero-Barceló during the 1992 general election campaign in Puerto Rico.

And his position on the right to secede is solidly supported by, as I said, international scholars in the field of international law, for to contend otherwise would be to equate self-determination with the vote to end all votes, a legalized form of political genocide that would allow Puerto Ricans to self-determine ourselves out of self-determination. Something like the freedom to contract oneself into slavery.

Second, since H.R. 4442 purports to provide a process that will run on time with congressional enactment of implementing legislation for decolonization of U.S. territories, in Congressman Young's words, "Before the end of the decade which has been named the



'Decade for the Eradication of Colonialism' by the United Nations," the underlying and not-so-hidden premise of the bill is also very clear. An unincorporated territory such as Puerto Rico presents the United States with a most embarrassing and unsatisfactory state of colonial affairs.

This is the real reason why the PDP leadership does not like it. It blows their cover and they would not even want it to be discussed.

Accordingly, the legislative findings in section 1 of the bill should make clear, at least with respect to Puerto Rico, that not only do Puerto Ricans not participate fully in Federal decision-making processes, but neither have we achieved a full measure of self-government.

Language in section 2 of the bill should also reflect this. Since integration is explicitly mentioned as a form to achieve a full measure of self-government, the language referring to "another arrangement with the United States," should reflect the non-colonial, non-territorial nature of the proposed arrangements.

Mr. Young's statement in introducing this bill explicitly contemplates independence or free association. Puerto Rico's current status obviously does not fit.

Third, the inescapable need for a process which this bill addresses must take into account and work with the preferences of the electorate of each insular area where such an expression has taken place—not nullify it. Accordingly, the legislative findings in section 1 of the bill should be amended to take note of the Puerto Rican electorate's expression on status preferences on November 14, 1993.

This adds to the necessity for the above-suggested clarification in section 2. That status consultation or plebiscite, as it is generally referred to in Puerto Rico, provides the most recent expression of popular sentiment and it points in the direction away from integration.

A majority of the Puerto Rican electorate does not favor statehood, but a majority does not favor the present status either. Puerto Rico's fig leaf of presumed consent to colonialism has been blown away showing the present colonial status in all its nakedness.

What the Puerto Rico plebiscite of 1993 makes abundantly clear is that a majority does favor a friendly and mutually beneficial relationship between our two countries based on the recognition of sovereignty. Approximately 48 percent favored such a relationship on the basis of a bilateral compact, which presupposes sovereignty for its lawful validity, and approximately 4.4 percent favored this type of relationship under independence with a mutually agreed upon treaty of friendship and cooperation that safeguards acquired or vested rights and transitional economic assistance under terms already incorporated into H.R. 4765, the bill which was approved unanimously by the U.S. House of Representatives in 1990.

Furthermore, H.R. 4442 authorizes the President of the United States and the government of an insular area to develop and submit to the Congress a proposal for Articles of Relations and Self-Government. This legislative language in section 3 of the bill should therefore make clear that the representatives appointed by a territory's government to negotiate with the President must reflect the expressed preferences of that insular area's electorate.



Notwithstanding the general language in section 4 of the bill, H.R. 4442 should make it crystal clear that the process which it contemplates for the development of the status of insular areas shall be not only in addition to but also consistent with any other process or development which may have taken place in a given territory. This is particularly important in light of the fact that President Clinton has appointed his assistant and Director of Intergovernmental Affairs, Marcia Hale, and heretofore House subcommittee staff director Jeffrey Farrow to co-chair an interagency working group to develop policy in response to last November's status referendum in Puerto Rico.

In conclusion, unless Congress points clearly in the direction of the decolonization process which it should develop, the end result is bound to be of a murky substance. We live like that already and do not need more of the same.

Nevertheless, we again commend Congressman Young, whom I am sorry to see left here somewhat upset by his exchange with Ms. Benitez, but nevertheless we can commend him for his efforts at making headway in the difficult path of decolonization. I trust that he will be amenable to amend this bill so that it will truly reflect his decolonizing support. If so, but only if so, we support it wholeheartedly.

I also wish to take special note of Chairman de Lugo's perseverance. You must be commended for prompt subcommittee attention to this and for your interest and efforts since I have known you in trying to be a facilitator for the development of a process for the insular areas that, when it finally reaches fruition, Mr. Chairman, can only make your country better.

Thank you very much, and if there are any questions, I will be happy to address them now.

[Prepared statement of Mr. Rodriguez-Orellana follows:]

PARTIDO INDEPENDENTISTA PUERTORRIQUEÑO

TESTIMONY BY  
MANUEL RODRIGUEZ-ORELLANA  
ELECTORAL COMMISSIONER  
OF THE  
PUERTO RICAN INDEPENDENCE PARTY  
BEFORE THE  
U.S. HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS  
ON H.R. 4442

May 24, 1994  
 Washington, D.C.



963 AVENIDA ROOSEVELT • PUERTO NUEVO,

PUERTO RICO 00920-9990

Mr. Chairman, Members of the Subcommittee:

I am here to present the position of the Puerto Rican Independence Party (PIP) on H.R. 4442, introduced by Congressman Don Young on Tuesday, May 17, 1994, in substitution of H.R. 3715, his previous bill on a related subject.

H.R. 4442 purports --in Congressman Young's words upon introducing this bill-- "to establish a mechanism for full self-government and political empowerment" of U.S. territories, "consistent with international decolonization and the principles of self-determination." According to Congressman Young, this new legislation "has been broadened in scope," enabling the insular areas "to utilize the same mechanism for options other than incorporation," which he expressly recognizes "could be independence or free association." He also proposes a timetable according to which the proposed Articles of Relations and Self-Government for Insular Areas of the United States "would be submitted to Congress no later than December 31, 1998, to provide time for the Congress to enact implementing legislation before the end of the decade, which --he recognizes-- has been named the 'Decade for the Eradication of Colonialism' by the United Nations."

We welcome Congressman Young's initiative and support his intent to eradicate colonialism from the future history of the United States. However, H.R. 4442 must be amended to reflect his intent. These amendments are indispensable for this congressional effort to chart the path which the United States must take in order

to overcome the mentality of the Cold War Era, and to live up to its legal and constitutional obligation to decolonize. While I shall not go into specific legislative language proposals, I would, of course, be willing to cooperate with staff in order to achieve these ends.

FIRST. The intent to decolonize is not only commendable; it is a legal and moral obligation which the United States assumed since 1945, when it became a sponsor and signatory of the United Nations Charter. The time is past due for congressional compliance to dispose of the territories --like Puerto Rico-- over which Congress exercises sovereignty by virtue of the Territory Clause of the U.S. Constitution.

Furthermore, under modern international law which, according to the U.S. Supreme Court is part of U.S. law, the right of peoples to self-determination and independence is inalienable, part of the jus cogens --a peremptory norm of international law that admits of no derogation by way of local or special custom, or by any domestic constitutional provisions or acts of the legislative, executive, or judicial branches of governments.

Congressman Young's purpose must therefore be understood as an effort to bring U.S. conduct with regard to its overseas possessions --which include Puerto Rico-- into compliance with international norms. The procedural means for decolonization under international law have been recognized by U.N.. General Assembly Resolution 1541 (XV) (1960) to include independence, free



association, and integration. However, this can in no way be interpreted to allow the derogation of substantive decolonization law, represented by U.N. General Assembly Resolution 1514 (XV) (1960) --namely, a people's inalienable right to self-determination and independence.

Puerto Ricans are a people. In fact, Puerto Rico was already a nation long before the United States acquired it by conquest in 1898. If any of the territories still governed by the Territory Clause of your Constitution fit the traditional profile of the territories which became "states" of the Union, Puerto Rico clearly is NOT one of them.

In the case of Puerto Rico, therefore, integration as an "incorporated" territory would not be a decolonizing option. It would not even extend any additional fundamental rights under the U.S. Constitution; but "incorporation" would extend the obligation to pay federal taxes in full, under the Uniformity Clause of your Constitution.

Nor would integration as a "state" of the Union be a decolonizing option for us. Puerto Rico would continue to be a Latin American nation of the Caribbean. As a "state," however, this Caribbean country to which you would have granted congressional representation would continue to be Spanish-speaking and poor; but with higher unemployment and ever more economically dependent, as a 1990 Congressional Budget Office study tends to show.

In either case, as a "state" or as an "incorporated" territory, the Puerto Rican people's right to self-determination

and independence would be no less than as an "unincorporated" territory or "commonwealth." Clearly then as a state, Puerto Rico would have the right to secede.

This much has been correctly recognized by Resident Commissioner Carlos Romero-Barcelo during the 1992 general election campaign in Puerto Rico. And his position on the right to secede is solidly supported by scholars in the field of international law. For to contend otherwise would be to equate self-determination with "the vote to end all votes," a legalized form of political genocide that would allow Puerto Ricans to self-determine ourselves out of self-determination --something like the "freedom to contract" oneself into slavery!

SECOND. Since H.R. 4442 purports to provide a process that will run on time with congressional enactment of implementing legislation for the decolonization of U.S. territories --in Congressman Young's words-- "before the end of the decade, which has been named the 'Decade for the Eradication of Colonialism' by the United Nations," the underlying and not-so-hidden premise of the bill is clear. An "unincorporated" territory, such as Puerto Rico, presents the United States with a most embarrassing and unsatisfactory state of colonial affairs.

Accordingly, the legislative Findings in Section 1 of the bill should make clear --at least with respect to Puerto Rico-- that, not only do Puerto Ricans NOT participate fully in federal decision-making processes, but neither have we achieved a "full

measure of self-government."

Language in Section 2 of the bill should also reflect this. Since "integration" is explicitly mentioned as a form to "achieve a full measure of self-government," the language referring to "another arrangement with the United States" should reflect the non-colonial, non-territorial nature of the proposed arrangements. Mr Young's Statement in introducing this bill explicitly contemplates "independence or free association."

Puerto Rico's current status obviously does not fit.

THIRD. The inescapable need for a process which this bill addresses must take into account and work with the preferences of the electorate of each insular area where such an expression has taken place --not nullify it. Accordingly, the legislative Findings in Section 1 of the bill should be amended to take note of the Puerto Rican electorate's expression on status preferences on November 14, 1993.

This adds to the necessity for the above suggested clarification in Section 2. That status consultation, or "plebiscite," as it is generally referred to in Puerto Rico, provides the most recent expression of popular sentiment, and it points in the direction away from integration. A majority of the Puerto Rican electorate does NOT favor statehood; but a majority does NOT favor the present status, either. Puerto Rico's "fig leaf" of presumed consent to colonialism has been blown away, showing the present colonial status in all its nakedness.

What the Puerto Rico "plebiscite" of 1993 makes abundantly clear is that a majority DOES favor a friendly and mutually beneficial relationship between our two countries, based on the recognition of sovereignty. Approximately 48% favored such a relationship on the basis of a "bilateral compact," which presupposes sovereignty for its lawful validity. And approximately 4.5% favored this type of relationship under independence, with a mutually agreed upon Treaty of Friendship and Cooperation that safeguards acquired or vested rights and transitional economic assistance under terms already incorporated into H.R. 4765, which was approved unanimously by the U.S. House of Representatives in 1990.

Furthermore, H.R. 4442 authorizes the President of the United States and the government of an insular area to develop and submit to the Congress a proposal for "Articles of Relations and Self-Government." The legislative language in Section 3 of the bill should therefore make clear that the representatives appointed by a territory's government to negotiate with the President must reflect the expressed preferences of that insular area's electorate.

Notwithstanding the general language in Section 4 of the bill, H.R. 4442 should make it crystal-clear that the process which it contemplates for the development of the status of insular areas shall be, not only "in addition to," but also consistent with, any other process or developments which may have taken place in a given territory. This is particularly important in light of the fact that



President Clinton has appointed his Assistant and Director of Intergovernmental Affairs, Marcia Hale, and heretofore House Committee Staff Director, Jeffrey Farrow, to co-chair an Inter-Agency Working Group to develop policy in response to last November's status referendum in Puerto Rico.

IN CONCLUSION, unless Congress points clearly in the direction of the decolonization process which it should develop, the end result is bound to be of a murky substance. We live like that already and do not need more of the same. Nevertheless, we again commend Congressman Young for his efforts at making headway in the difficult path of decolonization. I trust that he will be amenable to amend this bill, so that it truly reflects his decolonizing intent. If so, we shall support it wholeheartedly.

I also wish to take special note of Chairman De Lugo's perseverance. You must be commended for prompt Subcommittee attention to this bill, consistent with your interest and efforts since I have known you, in trying to be a facilitator for the development of a process for the insular areas that, when it finally reaches fruition, can only make your country better.

Mr. DE LUGO. Thank you very much, Mr. Orellana.

Is your first point that integration should not be allowed an as option for Puerto Rico?

Mr. RODRIGUEZ-ORELLANA. I am saying that if the United States is going to allow Puerto Rico to become integrated either as an incorporated territory other than as a state, it better make sure that it understands that it does not defeat Puerto Rico's right to self-determination and independence.

In this thing, former Governor Romero and I have debated many times and we will soon I imagine again. We have different visions. I could not feel that statehood is the solution for Puerto Rico's problems. But be that as it may, if Congress in my judgment went out of its mind and made Puerto Rico a State, I think that it should be aware of the fact that, in the future, Puerto Rico may again claim, and rightfully so, its right to independence because that is an inalienable right.

Mr. DE LUGO. When you say that Puerto Rico has not achieved a full measure of self-government, do you mean that it is not self-governing on local matters such as the state or that it does not have a vote in national policymaking?

Mr. RODRIGUEZ-ORELLANA. No. What I am saying is that it does not have the full measure of self-government to decide what course and what policies it will take with regards to anything—communications, transportation, the media, foreign affairs, foreign trade, commerce, you name the list and it is there.

What it means is that Puerto Rico's powers to govern itself and relate to the rest of humanity are totally impeded and curtailed by its inferior political status vis-a-vis the United States. What Puerto Rico has been able to do is establish and reorganize its local government much like permission could be granted to rearrange the furniture in your living room, but not for any structural changes.

Mr. DE LUGO. One of the strong arguments in favor of H.R. 4442 is that it would require serious national consideration of status petitions. What is your view of this argument? Do you believe that passage of this legislation would make it more possible that we would give serious consideration to a petition for independence of Puerto Rico or any other status option?

Mr. RODRIGUEZ-ORELLANA. Let me answer that in two ways. First of all, the bill, as it stands, is unacceptable because it could give the option to continue things as they are, which is no solution. In fact, it is the problem.

Mr. DE LUGO. In other words, your reading of the bill is that Commonwealth would be an acceptable option under this legislation?

Mr. RODRIGUEZ-ORELLANA. To me, Commonwealth has never been and never will be an acceptable option. And that having been clarified, I believe that the bill as it stands could let it pass, and that is what I don't want—

Mr. DE LUGO. The bill would allow it, whether it is acceptable or not. Your reading of the legislation as it is drafted is that this legislation would allow for the Commonwealth status.

Mr. RODRIGUEZ-ORELLANA. I believe so. And that is why I am opposed to it, because I don't think that complies with international decolonization norms.

Mr. DE LUGO. Thank you.

The gentleman from Puerto Rico.

Mr. ROMERO-BARCELÓ. I don't think that the things that we don't agree on we will never agree on.

Mr. RODRIGUEZ-ORELLANA. That is right.

Mr. ROMERO-BARCELÓ. Mr. Rodriguez, I would like to ask you a couple of questions or expand on your statement.

Besides the areas that you mentioned which are mostly international areas, that Puerto Rico does not have its own control, we are also subject to environmental laws passed by the Congress.

Mr. RODRIGUEZ-ORELLANA. Absolutely.

Mr. ROMERO-BARCELÓ. Labor laws.

Mr. RODRIGUEZ-ORELLANA. Labor laws. Environmental laws. Bankruptcy laws. You name it, at every level, the field is pre-empted by Federal legislation. That is correct.

Mr. ROMERO-BARCELÓ. The Congress has authority over Puerto Rico in terms of our behavior and the behavior of the government with relation to the people in every aspect of our lives.

Mr. RODRIGUEZ-ORELLANA. That has been so amply documented that only the blind by conviction cannot see it.

Mr. ROMERO-BARCELÓ. Did you participate in the drafting and in the review of the bill for the plebiscite?

Mr. RODRIGUEZ-ORELLANA. Not personally. I participated only tangentially with regards to the electoral aspects or the aspects of it that would have to be run by the elections commission. But, yes, I am aware of the bill.

Mr. ROMERO-BARCELÓ. In the bill, is there a mandate to do anything about the results of plebiscite?

Mr. RODRIGUEZ-ORELLANA. No. I find that is very unfortunate. I wish there had been a mandate. However, there is at least this: A requirement for the governor of Puerto Rico to notify the President of the United States and the Congress of the United States as to the results of the plebiscite. And also a subsequent Concurrent Resolution of the Puerto Rico legislature about the same thing, requesting a response from the President and from the Congress.

I think that, given the background to the status situation in the last five years, that is not negligible. Of course, in the 1989-1991 effort, one of the things that came out of that stalemated process was the desire to do something in Puerto Rico to provoke some reaction on the part of the Congress.

And to that extent, and to the extent that we are now having this hearing, I think that the plebiscite in 1993 did its job at least in that respect.

Mr. ROMERO-BARCELÓ. Does the bill define a majority as less than 50 percent?

Mr. RODRIGUEZ-ORELLANA. I don't think so. I don't think so. That is not my recollection.

Mr. ROMERO-BARCELÓ. Do you consider that less than 50 percent is a majority or of a mandate.

Mr. RODRIGUEZ-ORELLANA. Not usually. As I said in my statement, I think what we are doing now is we are living under a system that lacks legitimacy. It does not, even if colonialism can ever be consented to, and I don't think it can, validly. Now it is not even consented to in Puerto Rico.

Mr. ROMERO-BARCELÓ. That we agree on 100 percent. One of the things that this plebiscite did was to take away the consent of the governed which at least could be argued on the basis of the prior plebiscite and the results of the 1952 establishment of the so-called Commonwealth.

Mr. RODRIGUEZ-ORELLANA. That is correct.

Mr. DE LUGO. The gentleman from American Samoa.

Mr. FALEOMAVAEGA. Just one question, Would you be agreeable if the bill specifies those possible options in terms of the negotiation process between the United States and insular areas to clarify it including independence?

Mr. RODRIGUEZ-ORELLANA. Or free association.

Mr. FALEOMAVAEGA. Or free association, yes.

Mr. RODRIGUEZ-ORELLANA. That is my feeling. I think that this bill must be amended to comply with the order, to comply with decolonization norms. One of the ways in which it might do that is by establishing those options which are the legally recognized options at the international level.

Mr. FALEOMAVAEGA. You feel there should be perhaps more specifications in dealing with the United Nations provision dealing with non-self-governing territories in this legislation?

Mr. RODRIGUEZ-ORELLANA. I imagine you are referring to the provisions that were in the findings section of the previous bill that made specific reference to the resolution to make the 1990s the Decade for the Eradication of Colonialism.

I think that that would be another good beginning if it were brought back and put into the findings and that the Congress would take note of that.

Mr. FALEOMAVAEGA. Thank you.

Mr. RODRIGUEZ-ORELLANA. It should also take note of Resolution 1514 of 1960, the substantive resolution and its procedural one, Resolution 1541 mandating decolonization for all non-self-governing territories.

Mr. FALEOMAVAEGA. You indicated earlier that what should be done now is for the Puerto Rican government to notify the President and the Congress as to the results of the 1993 plebiscite.

Mr. RODRIGUEZ-ORELLANA. Or that is what the plebiscite law established.

Mr. FALEOMAVAEGA. And the President and Congress should respond officially as to what its position would be.

Mr. RODRIGUEZ-ORELLANA. Yes. In fact, I also said there was a concurrent resolution of the Puerto Rico legislature that not only required the Governor to provide that information but also asked that Congress respond.

Mr. FALEOMAVAEGA. So at least the Puerto Rican people will know what the official position is of the President as well as the Congress.

Mr. RODRIGUEZ-ORELLANA. That is correct. It may well be fine for us to continue this status debate and provide some fireworks via the radio that is transmitting this program to Puerto Rico. But at the same time, we have not been told what the United States is really willing to grant.

And I think that to ask people to make a choice when in fact what we see here is not only that Congress is not willing, as Con-



gressman Young said to Mrs. Benitez, to give all this money to Puerto Rico and the full extension of Federal social programs, but it makes you wonder then why are they going to be wanting to do it under statehood?

And then we hear this kind of very glib and simpatico hipocresia on the part of Congress—charging hypocrisy on the part of Congress—when we don't hear what it is they would be willing to grant.

I know there are other pressing issues for congressmen from their different jurisdictions, but they should know that in the job requirement, there is one to decolonize.

Mr. FALCOMA. Thank you, Mr. Chairman.

Mr. DE LUGO. Any more questions?

Thank you very much.

Mr. RODRIGUEZ-ORELLANA. Thank you very much, Mr. Chairman. And thank you to the members of the subcommittee.

Mr. DE LUGO. We are going to take a break in a few minutes. But before that, the committee will call Daniel Zafrin. Dan Zafrin is a specialist in American law with the Congressional Research Service. He has been with CRS for 27 years. He has a master's in international law and has advised Congress on issues during that period.

Mr. Zafrin, there has been a lot of talk about status options permissible under international law. We have heard repeated references to there being three options: integration, that is statehood; independence; or free association. What is the status of international law at the present time?

#### **STATEMENT OF DANIEL ZAFRIN, SPECIALIST IN AMERICAN LAW, CONGRESSIONAL RESEARCH SERVICE**

Mr. ZAFRIN. As is evident from earlier proceedings, there are not only politicians who can disagree, but international lawyers also disagree. But my interpretation—and of course there are varying interpretations—is that the tripartite options of independence, free association, and integration, have been broadened and expanded by the Declaration of Friendly Relations that came a decade later by adding establishment of a sovereign and independent state or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

Therefore, one can make a very persuasive argument that there are other options as long as a people exercise properly their right of self-determination. Whatever that entity might be, a commonwealth or a hybrid character that is developed in the future, as long as it is voluntarily entered into at that point, one can persuasively say that the exercise of self-determination has been made.

Mr. DE LUGO. How often can this exercise of self-determination be made?

Mr. ZAFRIN. Again, you have varying opinions, but there are quite a number of international legal scholars which argue that that right can only be exercised once and as long as it is properly exercised—the role of international law as well as domestic law is to settle issues.

And if one were to afford territoriality on an ongoing, continuous, in perpetuity right to exercise or change their status, really that leads to probably an intolerable situation in the sense that, if it becomes a state, it can secede as has been mentioned or just gives the entity an unilateral right at any point to change its status.

Mr. DE LUGO. What is the proper exercise of self-determination, what would be the proper exercise of self-determination?

Mr. ZAFRIN. Well, that again is one of the nebulous areas under international law, but once you have determined who people are that exercised it, and you also fixed the time and manner in which it is to be exercised, and if there is a whole school of thought, that you might have to have international observers and an election.

But as long as it is a determination under the local election law, the territory or whatever other entity we are talking about, as long as it complies with the standards, one could say that that choice of self-determination has been made. Of course it would have to be effectuated.

Mr. DE LUGO. So it is your position that under the General Assembly's Resolution 2787 where it broadened and placed in the explicit context of self-determination, quote, the establishment of a sovereign and independent state, or the emergence of any other political status freely determined by a people constitutes modes of implementing the right of self-determination by that people, unquote, that that would, in your opinion, provide for commonwealth status or even another status if it was done in a proper exercise of self-determination.

Mr. ZAFRIN. That is correct.

Mr. DE LUGO. All right. The gentleman from Puerto Rico.

Mr. ROMERO-BARCELÓ. What is the difference between commonwealth and non-incorporated territory?

Mr. ZAFRIN. Well, commonwealth and non-incorporated territory sort of blends two concepts and theories under international law and United States law; for example, there is no definition under international law for unincorporated territory. That is something we have founded in United States domestic law, and commonwealth, too.

There are many definitions of commonwealth under international law as well as apparently there are—

Mr. ROMERO-BARCELÓ. Commonwealth can be a non-incorporated territory?

Mr. ZAFRIN. Yes.

Mr. ROMERO-BARCELÓ. Thank you.

Mr. DE LUGO. Thank you very much, Mr. Zafrin. You have been very helpful.

Ladies and gentlemen, we are going to recess for—let's make it until 2 o'clock. We will reconvene at 2 o'clock.

[Whereupon, at 1:25 p.m., the subcommittee was recessed, to reconvene at 2:00 p.m. that same day.]

Mr. DE LUGO. The Subcommittee on Insular and International Affairs will continue its hearing on the legislation that is before it.

Before we hear our next witness, the Chair would place in the record a letter that was addressed to the Chair on March 9, 1994, from the White House signed by Marcia L. Hale, Assistant to the President and Director of International Affairs. Copies were sent to

the resident commissioner, to the Governor of Puerto Rico, and to the President of the Popular Democratic Party at that time, Senator Miguel Hernandez-Agosto.

In the letter it says, "The importance"—I will just quote two sections since there has been a lot of reference to the question of the working group.

The importance of the United States responding to the wishes that these citizens expressed highlights the need for us to examine and seek to form policy in light of the plebiscite.

The letter is making reference to the citizens of Puerto Rico who participated in the plebiscite.

The President has, therefore, directed the organization of an Inter-Agency Working Group on Puerto Rico.

The working group will assist the President in fulfilling his pledge to consider the islands' situation in consultation with its leaders as policy that would substantially affect it is made and carried out. It will, additionally, provide a better means of working with Congress on Puerto Rican questions.

That is a small part of what is in the letter. And the letter in its entirety, without objection, will be placed in the record at this point.

[The information follows:]

THE WHITE HOUSE  
WASHINGTON

March 9, 1994

The Honorable Ron de Lugo  
Chairman  
Subcommittee on Insular  
and International Affairs  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

This is to reiterate what I said in our discussion earlier today concerning the actions that the Federal Government should take following the plebiscite that the Commonwealth of Puerto Rico conducted last November on political status proposals made by the islands' three principal political parties. I have conveyed the same points to Resident Commissioner Carlos Romero-Barceló, Governor Pedro Rosselló, and Popular Democratic Party of Puerto Rico President Miguel Hernández-Agostó.

President Clinton has been committed to strongly support the will of the people of Puerto Rico regarding their islands' status, whether they decide to change it or want to make the present relationship work better for them. He is also very concerned about the health of the economy of Puerto Rico and dedicated to helping Puerto Ricans meet their pressing needs and overcome the serious problems they face.

The importance of the United States responding to the wishes that these citizens expressed highlights the need for us to examine and seek to form policy in light of the plebiscite.

The President has, therefore, directed the organization of an Inter-Agency Working Group on Puerto Rico. It is my understanding that Jeffrey L. Farrow, Staff Director of the Subcommittee, has agreed to join the Department of Commerce. Among his other responsibilities, Jeffrey will serve with me as Co-Chair of the Inter-Agency Working Group. We will coordinate the development and review of policy with senior officials of the relevant departments and agencies as well as with other staff in The White House and the Executive Office of the President.



Page 2

A primary task will be to construct positions on economic and other proposals from the plebiscite; but the working group will also provide guidance and serve as a liaison on other economic issues and other matters related to Puerto Rico. Because the Commonwealth's economic situation is such a major factor in the issues, measures to improve it will be a priority along with equitable treatment in programs and status matters.

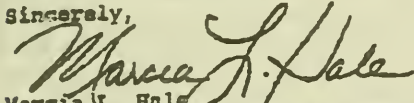
The working group will assist the President in fulfilling his pledge to consider the islands' situation in consultation with its leaders as policy that would substantially affect it is made and carried out. It will, additionally, provide a better means of working with Congress on Puerto Rican questions.

Finally, this new policy process will not replace the responsibilities of any other part of the Executive Branch. It will, instead, fill in a gap in the existing structure that you and others in the Congress have asked the Administration to fill.

We should be able to assemble the working group and be prepared to report further to the Subcommittee in about ninety days. In light of this, we believe it would not be productive for an Administration witness to testify at this time. We look forward to discussing with you appropriate Administration testimony as the working group makes progress.

In concluding, let me note that we look forward to working with you and others on the issues raised by the plebiscite and other matters of importance to the people of Puerto Rico.

Sincerely,



Marcia L. Hale  
Assistant to the President and  
Director of Intergovernmental Affairs

cc: The Honorable Carlos A. Romero-Barceló  
The Honorable Pedro Rosselló  
The Honorable Miguel Hernández-Agosto

Mr. DE LUGO. Our next witness is a leader of the Puerto Rico statehood movement as well as a key figure in the legislative assembly, well known to this chairman and to this committee. He has appeared before the committee on numerous occasions and has been extremely helpful to us.

Representing the Senate is Chairman Kenneth McClintock Hernandez of the Committee on Federal and Economic Affairs. And, Senator, it is a pleasure to have you before us again and we would like to receive your testimony.

**STATEMENT OF HON. KENNETH McCLINTOCK HERNANDEZ,  
CHAIRMAN, COMMITTEE ON FEDERAL AND ECONOMIC AFFAIRS,  
SENATE OF PUERTO RICO**

Mr. McCLINTOCK. Thank you, Mr. Chairman and Mr. Underwood. I speak here today not on behalf of a Senate but only a super-majority of the Senate of the Puerto Rico, that is a political appearance not paid for with public funds and it is part of the new processes that we have in the Senate of Puerto Rico.

But I also appear as a member of a new generation that, as it comes of age, is contributing to the gradual growth of the statehood movement and erosion and eventual demise of the Commonwealth.

As you all know, after the frustration of the 1989-1991 consultation process between Congress and the Puerto Rico political leadership, the NPP, a coalition of pro-statehood Democrats and Republicans, won the 1992 elections. And a plebiscite was held November 14, 1993, which proved that commonwealth's 22 percent advantage over statehood in 1967 had dwindled to 2.3 percent by 1993, a dead heat in which one of the three political formulas got the majority vote necessary to be implemented as a majority will of the people.

The democratic surge in support for statehood came about in spite of the threats by several U.S. corporations that the defeat of the Commonwealth would lead them to close down their operations and leave thousands unemployed and in spite of a barrage of emotional and misleading pro-commonwealth status advertisements.

The majority of the people no longer consent to the present political relationship. Call it as you may, commonwealth territory or colony, since the present status does not have the consent of the governed, this gridlock needs to be resolved.

The 1993 plebiscite also made clear that 95 percent of the Puerto Rican people support "permanent union."

H.R. 4442, with several amendments that we will propose, could provide a constructive framework to begin resolving the current gridlock on the political relationship between Puerto Rico and the United States. The 1993 plebiscite experience has demonstrated the importance of participation of the U.S. Congress in this process, and the necessity of working together to resolve this situation.

Evidently, the present political status is not a form of permanent union inasmuch as Congress reserves the power under the territorial clause to do with Puerto Rico virtually whatever it wishes to do. Statehood would clearly do away with such powers as would independence.

Political integration or incorporation, as defined in the so-called insular cases, would make the rest of the Constitution apply fully,

thus limiting the powers of Congress under the territorial clause over an incorporated territory.

Is political integration or incorporation compatible with statehood? Undoubtedly. Is political integration or incorporation compatible with so-called commonwealth status as defined by the founding father, Don Luis Muñoz-Marín over the years as defined by its supporters during 1967 and 1993 plebiscite? I believe so.

Political integration or incorporation would ease the way in the uphill battle to fully extend several Federal programs to the island, a goal of commonwealthers as well as statehooders. While it may involve increased Federal taxation, Governor Luis Muñoz-Marín, back in 1962 when commonwealth status was 10 years old, made it clear that as the Commonwealth matured, it could assume Federal obligations as well.

Since Muñoz-Marín spoke those words in 1962, Commonwealth entered and exited adolescence, entered and outgrew early adulthood, went through the 30-something years and is now 42 years old. We are clearly mature enough to assume whatever obligations incorporation entails, under political integration or incorporation.

Puerto Rico could negotiate those relationship improvements that are attainable under the present relationship. Those improvements that are not constitutionally attainable under incorporation are also politically or economically unattainable under the present status.

The Commonwealth party's proposal in which Puerto Rico would enter into a bilateral compact with the U.S. that could not be altered unilaterally and in which Puerto Rico would receive parity in all Federal programs, without paying Federal taxes and with protection for agricultural products on the island, flies in the face of conventional wisdom as well as national hemispheric and global trends.

Until now, the only significant reaction or expression from the Clinton administration from the 1993 plebiscite results has been the creation of a special working group to study and analyze policy towards Puerto Rico. The working group's mandate is not incompatible with H.R. 4442. On the contrary, its existence would become essential should H.R. 4442 become law.

While the U.S. Constitution clearly expresses that Congress shall have the power to admit or dispose of any territory under the jurisdiction of the United States, it does not allow Congress to maintain a territory in the twilight zone during long periods of time.

Puerto Rico has been in this situation for over 96 years and real steps to correct the situation have not yet been taken. It is clear what the intention of the founding fathers was the creation of these two clauses: The territorial clause and the admission clause in the Constitution. They believed that colonialism was immoral. Thus, no clause in the Constitution can legitimately be construed to condone colonialism or open-ended territorial status. Congress may make needful rules and regulations to govern the territory for a while, but it must eventually admit or dispose of territory.

H.R. 4442 sets Congress in the right direction and provides it as well as the territories with the mechanisms to start a real decolonization process. The mechanisms proposed by H.R. 4442 in order to function properly should be amended to assure that, upon



a petition by the insular area government, the President shall appoint his personal representative within 60 days, that the personal representative in the insular area representatives shall propose corresponding articles within six months instead of a year, that Congress will act within nine months and that should Congress approve legislation, they will be voted upon in a plebiscite within nine additional months.

These amendments, while not forcing the President and Congress to accept any particular proposition, do force them to face up to their fiduciary obligations over the insular areas in providing for a fast-track mechanism to resolve the issue of political incorporation or separation.

Finally, Senate president Roberto Rexach-Benítez has asked me to convey his invitation for the subcommittee to celebrate public hearings on the implementation of this legislation in Puerto Rico.

As I mentioned before, 95 percent of the Puerto Rico electorate in the 1993 plebiscite supported a leadership that guarantees permanent union with the United States. The Articles of Incorporation, therefore, could be used as a mechanism to guarantee permanent union with the U.S.

Supporters of both commonwealth and statehood could, for the first time ever, be on the same side in voting for incorporation, join us closer to true, permanent union while some Commonwealth party political leaders may wish such an event would never come to pass in order to perpetuate and continue feeding from the deep divisiveness that has always characterized our people.

Such an opportunity should not be denied to America's 3.6 million citizens on the island. On the other hand, supporters of free association and independence will have the opportunity to vote against incorporation and, if successful, begin a process of gradual or abrupt separation from the United States.

It is time to give the territories the opportunity to establish the necessary mechanism to obtain full self-governance and political empowerment. It is time to abolish the racist concept and doctrine of non-incorporated territories which took shape first with the insular cases of the U.S. Supreme Court at the beginning of this century, and it is time to comply with United Nations doctrine which has declared this decade as a decade for the Eradication of Colonialism.

Thank you.

[Prepared statement of Mr. McClintock follows:]



**Statement by  
Senator Kenneth D. McClintock  
on H.R. 4442**

Mr. Chairman and members of the Subcommittee on Insular and International Affairs. It is a pleasure to be here, once again, as we take another important step in defining the ultimate political relationship between Puerto Rico and the United States and to express our opinion on Congressman Don Young's legislation, H.R. 4442, to provide for a process for the development of further self-government for the insular areas of the United States.

I have been authorized to speak here today on behalf of the 20-member majority of the Puerto Rico Senate, which comprises 69% of our legislative body.

As you all know, after the frustration of the 1989-1991 consultation process between Congress and the Puerto Rican political leadership, the pro-statehood New Progressive Party (NPP) of Puerto Rico and its president, and now governor, Dr. Pedro Roselló, promised the people of Puerto Rico during the 1992 campaign, a plebiscite on the three political status options: statehood, commonwealth and independence. The NPP, a coalition of pro-statehood Democrats and Republicans, won the 1992 elections and a plebiscite was held on November 14, 1993, which proved that commonwealth's 22 percent advantage over statehood in 1967 <sup>2</sup>, had dwindled to 2.3 percent by 1993 <sup>3</sup>, a dead heat in which none of the three political formulas got the majority vote necessary to be implemented as the majority will of the people.

The results of the 1993 plebiscite raise a series of interesting points in the relationship between Puerto Rico and the United States. A majority of the people of Puerto Rico no longer consents to the present political relationship, call it as you may---commonwealth, territory or colony. Since the present status does not have the consent of the governed, this gridlock needs to be resolved.

On the other hand, the 1993 plebiscite also made clear that 95% of the Puerto Rican people support "permanent union".

I strongly believe that H.R. 4442, with several amendments that we will propose, could provide a constructive framework to begin resolving the current gridlock on the political relationship between Puerto Rico and the United States and a great opportunity

<sup>1</sup> Senator McClintock chairs the Senate's Committee on Governmental Affairs, the Committee on Federal and Economic Affairs, and the Select Committee on Economic Regulation. He co-chairs the Council of State Government's 1995 State Host Committee, and is a member of the CSG's Eastern Regional Conference's Executive Committee.

<sup>2</sup> The 1967 plebiscite results, were 60.41% for Commonwealth, 38.98% for Statehood and .60% for Independence

<sup>3</sup> The 1993 plebiscite results were 48.6% for Commonwealth, 46.3% for Statehood and 4.4% for Independence

to once and for all embark Puerto Rico in a real decolonization process. The 1993 plebiscite experience has demonstrated the importance of the participation of the U.S. Congress in this process, and the necessity of working together to resolve this situation.

In December of 1993, the Senate of Puerto Rico created a tri-partisan committee, which I chair, empowered to follow-up on Congressional action and approved, with a more than two-thirds majority in the House, Concurrent Resolution 24 <sup>4</sup> asking Congress to respond to the plebiscite results.

Evidently, the present political status is not a form of permanent union, inasmuch as Congress reserves the power under the Territorial Clause<sup>5</sup> to do with Puerto Rico virtually whatever it wishes to do. Statehood would clearly do away with such powers, as would independence. Political integration or incorporation, as defined in the so-called Insular Cases, would make the rest of the Constitution apply fully, thus limiting the powers of Congress under the territorial clause over an incorporated territory.

Is political integration or incorporation compatible with statehood?. Undoubtedly.

Is political integration or incorporation compatible with so-called commonwealth status, as defined by its founding father, don Luis Muñoz-Marín, over the years, as defined by its supporters

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<sup>4</sup> A copy of Concurrent Resolution 24 accompanies this statement.

<sup>5</sup> Article IV, Section 3, clause two of the United States Constitution reads as follows:

"The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

during the 1967 and 1993 plebiscite<sup>6</sup>? I believe so.

Political integration or incorporation would ease the way in the uphill battle to fully extend several federal programs to the island, a goal of commonwealthers, as well as statehooders. While it may involve increased federal taxation, Gov. Luis Muñoz Marín, back in 1962, when commonwealth status was 10 years old, made it clear that, as commonwealth matured, it could assume federal obligations as well as additional benefits. Since Muñoz Marín spoke those words, commonwealth entered and exited adolescence, entered and outgrew early adulthood, went through the thirtysomething years and is now 42 years old. We are clearly mature enough to assume whatever obligations incorporation entails.

Under political integration or incorporation, Puerto Rico could negotiate those relationship improvements that are attainable under the present relationship. Those improvements that are not constitutionally attainable under incorporation, are also politically or economically unattainable under the present status.

I personally believe that the Commonwealth party's proposal in which Puerto Rico would enter into a bilateral compact with the U.S. that could not be altered unilaterally and in which Puerto Rico would receive parity in all federal programs, without paying federal taxes, and with protection for agricultural products on the island flies in the face of conventional wisdom, as well as national, hemispheric and global trends.

Until now, the only significant reaction or expression from

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<sup>6</sup> The 48.6 % of the people who voted for commonwealth, endorsed the following definition of "commonwealth" drafted by the pro-commonwealth Popular Party:

"A vote for Commonwealth is a mandate in favor of :

- Guaranteeing progress and security for us and our children inside a status of full political dignity, based on a permanent union between Puerto Rico and the United States, contained in a bilateral pact that cannot be altered without mutual consent.

Commonwealth guarantees:

- Irrevocable U.S. Citizenship;
- Common market, common coin, and common defense with the U.S.;
- Fiscal autonomy for Puerto Rico;
- The Puerto Rican Olympic Committee and proper international sporting representation;
- Development of our cultural identity: with Commonwealth, we are Puerto Ricans first.

We will develop Commonwealth through specific proposals to Congress. We will immediately propose:

- Reformulate section 936, securing the creation of more and better jobs;
- Extend full Supplemental Security Income (SSI) benefits to Puerto Rico;
- Obtain full Nutritional Assistance Program funding;
- Protect other agricultural products, other than coffee."

the Clinton administration to the 1993 plebiscite results has been the creation of a special "working group" to study and analyze policy towards Puerto Rico. The working group's mandate is not incompatible with HR 4442. On the contrary, its existence would become essential, should HR 4442 become law.

The United States has a serious constitutional responsibility with its territories and their political development. While the United States Constitution clearly expresses that Congress shall have the power to **admit** or **dispose** of any Territory under the jurisdiction of the United States, it does not allow Congress to maintain a territory in the "Twilight Zone" during long periods of time. Puerto Rico has been in this situation for over 96 years and real steps to correct the situation have not yet been taken.

It is clear what the intention of the Founding Fathers was with the creation of these two clauses, the Territorial Clause and the Admission Clause, in the Constitution. They believed that colonialism was immoral. Thus, no clause in the Constitution can legitimately be construed to condone colonialism, or open-ended territorial status. Congress may make needful rules and regulations to govern a territory for a while, but it must eventually admit or dispose of the territory.

H.R. 4442 sets Congress in the right direction and provides it, as well as the territories, with the mechanisms to start a real decolonization process. Also, the legislation provides the insular areas with the opportunity of choosing between political integration into the United States or another arrangement like free-association or independence, in consultation with Congress.

I believe that the mechanisms proposed by HR 4442, in order to function properly, should be amended<sup>7</sup> to assure that, upon a petition by the insular area government, the President shall appoint his personal representative within sixty days, that the Personal Representative and the insular area representatives shall propose the corresponding Articles within 6 months, that Congress will act within 9 months and that, should Congress approve legislation, they will be voted upon in a plebiscite within 9 additional months. These amendments, while not forcing the President and Congress to accept any particular proposition, do force them to face up to their fiduciary obligations over the insular areas in providing for a fast-track mechanism to resolve

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<sup>7</sup> Sec. 3 (b) should be amended to read that "...the President shall designate, within sixty (60) days, a personal representative..."

Sec. 3 (c) should be amended to read as follows: "The President's personal representative and the representatives of the insular area government, upon agreeing to the proposed Articles, shall submit the proposed Articles and a report on the consultations to the Congress within one hundred and eighty (180) days after the appointment of a representative under subsection (b)."

Sec. 3 (d) should be amended to read as follows: "A resolution approving the proposed Articles which shall be voted upon by both Houses of Congress within two hundred and seventy (270) days after the submission of the proposed Articles, and shall not take effect until the citizens of the insular area ratify the legislation in a plebiscite, organized by the government of the insular area, to be held no later than two hundred and seventy (270) days after its approval by Congress."



the issue of political incorporation or separation.

Finally, Senate President Roberto Rexach-Benítez has asked me to convey his invitation for Subcommittee to celebrate public hearings on the implementation of this legislation in Puerto Rico. We all share in the responsibility to end with the gridlock on the political status issue and to continue with a process that we started last year.

As I mentioned before, 95% of the Puerto Rico electorate in the 1993 plebiscite supported a relationship that guarantees permanent union with the United States. The articles of incorporation, therefore, could be used as a mechanism to guarantee permanent union with the United States.

Supporters of both commonwealth and statehood could, for the first time ever, be on the same side in voting for incorporation, drawing us closer to true permanent union. While some Commonwealth party political leaders may wish that such an event never come to pass, in order to perpetuate and continue feeding from the deep divisiveness that has always characterized our people, such an opportunity should not be denied to America's 3.6 million citizens on the island. On the other hand, supporters of free-association and independence will have the opportunity to vote against incorporation and, if successful, begin a process of gradual or abrupt separation from the United States.

It is imperative to take action now to address the situation of the colonial relationship between Puerto Rico and the United States. It is time to give the territories the opportunity to establish the necessary mechanism to obtain full self-governance and political empowerment. It is time to abolish the racist concept and doctrine of "non-incorporated territories", which took shape first with the Insular Cases of the U.S. Supreme Court at the beginning of this century and it is time to comply with United Nations doctrine, which has declared this decade as the "Decade for the Eradication of Colonialism".

Thank you.

Mr. DE LUGO. Thank you very much, Senator, for a very interesting statement, and I would like to comment that your suggestions regarding actually amending the legislation to put in a specific number of days by which these actions should be taken is one that is interesting. We have that in my legislation that passed the House regarding the plebiscite. In fact, the figure 180 days is very familiar.

We will take that under consideration.

Mr. MCCLINTOCK. We are proposing 270.

Mr. DE LUGO. Two hundred and seventy.

Mr. MCCLINTOCK. One hundred and eighty days for the negotiations to take place, 270 days for Congress to act upon the legislation, and should it be approved, 270 days for the people in the territory to ratify.

Mr. DE LUGO. Right.

Mr. MCCLINTOCK. Except for the 60 days that the President has given, it adds up to two years.

Mr. DE LUGO. You had a very interesting scenario there where you saw this legislation as a possibility of bringing about new coalitions, a coalition of statehooders and commonwealthers and those who were for free association and independence.

Would you state that again?

Mr. MCCLINTOCK. Sure. Free association separates Puerto Rico from the U.S., as well as independence. Permanent union can only happen under statehood or incorporation. Therefore, those commonwealthers who believe in permanent union with the U.S. will then have to choose between voting for incorporation and permanent union or backtracking on permanent union and supporting free association which takes away any permanency in whatever union or association may remain.

Therefore, it would allow people to vote not on a specific status proposals, but on the concept of permanent union, yes or no, and then we would know what percentage of the 95 percent that actually did vote for permanent union last November would be willing to put their votes where their mouth is because, for some commonwealthers, permanent union might be simply a phrase to try to attract statehooders to vote for commonwealth.

But I think that the immense majority of commonwealthers that cherish their American citizenship and support a close relationship with the U.S. would vote for incorporation which would be short of the statehood.

Mr. DE LUGO. Let me say this or ask you this, since we are talking about the plebiscite that took place last November in the case of Puerto Rico, shouldn't the plebiscite results mean that what should be discussed in negotiations is the commonwealth proposal, because the commonwealth proposal was the one that won a plurality, didn't get a majority?

That is true, but you know, I personally raised the question why a majority wasn't required before the plebiscite in hearings, but those that made the decisions decided not to require a majority.

Mr. MCCLINTOCK. Well, first of all, I think that the personal representative of the President and the representatives of the insular area would have at least a moral and ethical obligation to write up articles that can be approved by Congress. And I don't know one

single Member of Congress that really believes that using the definition that was presented to the people that voted for commonwealth in November as a framework for those Articles of Incorporation really believes that a majority of House and a majority of Senate would vote for such articles.

Supplemental security income being applied to Puerto Rico without Federal taxation and all the other backtracking on section 936 amendments and all that, so I think if we are going to try to do a fairy-tale type of Articles of Relations, then why go into the process, let's forget about it.

I think you have to present proposals that are realistic and those Articles of Relations which may be incorporation. And incorporation would allow for us to be fully applied to Puerto Rico and all other Federal programs to be applied to Puerto Rico, and that would not be possible under any other relationship except for free association or independence.

Or if somebody wants to draw up articles that would define free association and define it as such, I wouldn't have any problem going to the people in a referendum on free association.

Mr. DE LUGO. Well, as to the results of the plebiscite that was just held, who should pursue the proposals with the government up here, with the Administration, with the Congress? Should it be the administration of Puerto Rico, that is the government of Puerto Rico which does not support commonwealth but supports statehood, or should it be the commonwealthers who won the plebiscite?

Mr. MCCLINTOCK. I think that until December 31, 1996, there is an elected government in Puerto Rico and I don't share Professor Benitez' suggestion that a semi-coup d'etat should take place in Puerto Rico and put as representatives of the people of Puerto Rico people who have not been elected to represent the people of Puerto Rico.

Mr. DE LUGO. Yes, but I thought I had read where Governor Rossello indicated that he thought the commonwealthers should pursue the effort since it was their proposal?

Mr. MCCLINTOCK. Well, we do believe that they should be free to come up here to Congress—and they have been free to do so for the past six months and haven't done so—to have legislation introduced to implement the plebiscite results. But the vote that was taken last November 14 was not taken within the framework that we would have the opportunity of seeking political incorporation.

I think if a vote had been taken on the possibility of political integration or incorporation, you would have had substantially different results. You should not apply a vote under certain rules of the game to apply to another game entirely.

Mr. DE LUGO. All right. The gentleman from Guam.

Mr. UNDERWOOD. Thank you very much, Senator, for your presentation. It is very interesting. I am very interested in what you have described as permanent union and how you have characterized the discussion in terms of Puerto Rico. And it occurs to me that—maybe not—you indicated some manufacturers you have interpreted that vote to mean they are for permanent union, that they desire permanent union with the United States.

But an alternative explanation might be that in fact a significant part of the population desires permanent union with the United

States under certain conditions and that maybe it is the discussion of certain conditions that is really the crux of the problem rather than the expression of the desire of permanent union with the United States.

Mr. MCCLINTOCK. If you analyze the content of the propaganda, the advertising that was placed by the commonwealthers during the time prior to the plebiscite, you will see that the most prominent words that they use in their campaign were union permanente. I mean it was extremely prominent.

Everything else was secondary, and even among the other things that were secondary, they made a lot of mention about integrating Puerto Rico to certain Federal programs to which we are not integrated right now. If you see the definition of commonwealth in my testimony, you will see that even in the definition, there is relatively little mention of autonomous-type language.

You know, they talk about progress and security, full political dignity, based on a permanent union between Puerto Rico and the U.S. contained in a bilateral pact that cannot be altered without mutual consent. But they didn't explain whether they are using an already existing bilateral compact with which people would feel comfortable or whether it is a new bilateral compact, which many people within the popular party would feel uncomfortable.

It says commonwealth guarantees U.S. citizenship, common market, common coin, common defense with the U.S. fiscal autonomy. So you have five pro-U.S. issues; one autonomous issue, the Puerto Rican Olympic committee; second separate issue, development of our cultural identity. That really is not even political at all. And then they talk about the specific changes that they are going to implement.

Reformulate section 936 which is an economic issue. Extend full supplemental security income, an economic issue. Obtain full nutritional assistance program funding, another economic issue, and then one which kind of separates us, which is, put in protectionist measures for other agricultural products.

So you see the balance is very much towards concepts that tend to unite us to the U.S. rather than concepts that tend to separate us from the U.S. from a psychological point of view.

I think they did their polling and their polling wasn't much different than ours. They were polling the same people and they had very competent pollsters. Their polling said if you emphasize autonomy, free association, and separateness, you are not going to garner enough votes to win. If you wrap yourself around the American flag, give permanent union a high level of prominence within your campaign, if you use the American flag a lot in your campaign as they did, you are going to be able to attract votes of people who intend to support statehood but have some qualms about statehood but favor permanent union.

So I think an immense majority of the people who voted for commonwealth do believe in permanent union and, given an opportunity to vote for incorporation or political integration short of statehood, adding those votes to the votes of statehood leaders who would obviously vote in favor, you would have a tremendous majority in favor of that option.



Mr. UNDERWOOD. But even in that, though, permanent union and the use of the American flag as a symbol is something that clearly is part of how commonwealth is expressed. I am still trying to understand the relationship of your argument vis-a-vis statehood. It seems to me that for someone to say that they want permanent union with the United States and then they want these other things as well, is a perfectly legitimate argument to make, and I don't really think that it touches on the issues as you characterize them.

Mr. MCCLINTOCK. Well, the problem is that you can construct a vision of an ideal commonwealth status where you have the best of both worlds, but is it going to fly in Congress? And are you going to include those?

I mean, it is one thing to put it in the ballot in Puerto Rico and let people vote emotional for whatever they want. It is another thing to come up here with a straight face and say that you are asking for full inclusion in SSI, for full inclusion in the food stamp program, for full inclusion in a number of other things, and not put one penny into the Federal Treasury, a penny of which Muñoz-Marín was talking about putting in the Federal Treasury as far back since 1962, as I mentioned in my testimony.

It is one thing what you are going to use back home and it is another thing to make with a straight face an argument in favor of that. What we are seeking is to solve the political status, not to extend it indefinitely. As long as you continue proposing things that you know for a fact are not achievable, what you are doing, you are just prolonging the existence of the present relationship totally unaltered which benefits the Commonwealth party.

Mr. UNDERWOOD. With all due respect, the same thing could be said about advocacy of statehood, that it is politically unattainable. The issue is that there have been people who have come here with a straight face and asked for some of those things and have received them. And the CNMI is a good example, so indeed it is possible within this political context to be able to carry some of these things out.

When we start to discuss issues about what general direction a territory should go in, and it seems that in the context of Puerto Rico there is a gridlock on this issue, there is a real deep division on this issue, it is when a consensus is arrived at or when there is a larger majority or indeed a majority at all for any given position, then it seems that that should govern the general direction.

It is not that I am unsympathetic to what you are trying to get across, but I am a little bothered by the notion that we are in a position to give up in advance those positions which we may desire because we are going to run into, quote, political realities in the House of Representatives or the U.S. Senate, that surrendering in advance, you haven't engaged yet, but you are already surrounded. And I think that is not—that is not—that is not a position I could ever take.

Mr. MCCLINTOCK. Going back to what you said about CNMI, what was the budgetary effect of including the CNMI? It was a small fraction of what it would be to include Puerto Rico. I am not saying these things are not legal, it is that they are not politically

and budgetarily achievable, and including CNMI in SSI and some other Federal program would cost maybe \$10 million.

Here we are talking about including Puerto Rico, you are talking about \$800 million or \$900 million or maybe a billion dollars, and in that sense, it is clearly not comparable from a realistic and political point of view.

With regard to giving up some of the things that you believe in in order to reach consensus, if the statehooders and the commonwealthers and the independistas hadn't been willing to give up on a few of things they believe in, Congressman de Lugo would not have been able to get the bill approved in the House in October of 1990. It was a bill where everybody had to give up a little bit where the chairman of this subcommittee concentrated on trying to find what the procedural common ground was in order to get the process moving ahead. And even that common ground which he found was not sufficient to allay the fears in the other body, in the upper body.

So if we want to solve this, we can't come up—we are giving up a lot by saying that we are willing to accept a vote on political integration or incorporation. I am a statehooder. I want full statehood for Puerto Rico, but I am willing to accept the process that would include incorporation which I see as a possible stepping stone which is not incompatible with statehood, but which I recognize also that I have a common ground with many commonwealthers.

Mr. DE LUGO. Thank you very much.

Mr. UNDERWOOD. Thank you.

Mr. DE LUGO. There is a vote on the floor, and we have about seven minutes to get there. I want to thank you very much, Senator McClintock, for your testimony. It has been very helpful to the committee and I want to thank the other witnesses who have been so patient and are waiting.

Mr. DE LUGO. Our next witness is going to be the Honorable Pilar Lujan. But first, I am going to have to recess to go and vote and then we will hear your testimony Senator.

Senator Lujan will be followed by Juan Babauta who is a resident representative to the United States from the Commonwealth of the Northern Marianas, and he will be accompanied by the Honorable Pedro P. Reyes of the House of Representatives.

Then we will hear from Dr. Miriam Ramirez de Ferrer who is the president of Puerto Ricans in Civic Action. And she will have others of her group appearing with her, and also Mr. Arturo Guzman, who is co-chair of IDEA.

We will be right back as soon as we vote. All right. The committee stands in recess.

[Recess.]

Mr. DE LUGO. The committee hearing on H.R. 4442 will resume.

We just broke a moment ago to take a vote on the floor on base closings, and there will be additional votes this afternoon on a regular basis. Of course, this is something that the delegates didn't use to have to do. But we are very happy to do it to have further participation in the process.

There are going to be a number of very controversial issues up this afternoon, possible votes on Bosnia and the Haiti situation and

other extremely controversial issues. So we will be interrupted from time to time.

Our next witness is a very valuable member of the legislature of Guam, Senator Pilar Lujan, a member of the Guam Commission on Self-Determination who I had the pleasure of seeing in Guam. And recently when I visited out there and people of Guam were so gracious in their hospitality, I want to thank you very much, Senator, for your hospitality while I was there, and welcome you before this committee and thank you for your patience today waiting for this moment.

**STATEMENT OF HON. PILAR LUJAN, SENATOR, LEGISLATURE OF GUAM, AND VICE CHAIR, GUAM COMMISSION ON SELF-DETERMINATION**

Ms. LUJAN. Thank you very much, Mr. Chairman.

First, let me express the regrets of Governor Joseph Ada for not being able to be here today, as well as the Honorable Speaker Joe T. San Agustin for not being able to personally testify. I submitted the Speaker's statement.

Mr. Chairman, and members of the House Natural Resources Subcommittee on Insular and International Affairs, thank you very much for the opportunity to comment on H.R. 4442.

I am Pilar Cruz Lujan, a Senator of the 22nd Guam Legislature and vice chairperson of the Guam Commission on Self-Determination.

First, allow me to extend thanks to Representative Don Young for his efforts—those of last year as reflected in H.R. 3715, and in the new proposal H.R. 4442—to address the issue of political status of the remaining colonies under the administering power of the United States.

The fact that a Nation as great as the United States maintains dependencies as we near the end of the twentieth century is an affront to human rights and all American ideals of democracy. As has been noted in numerous instruments of the United Nations and by authorities of international law, "Under contemporary international law, colonialism is an international crime . . . the criminal character of colonialism and of the acts by which it is practiced calls for emphasis. . . ."

In this regard, Mr. Chairman, the efforts of Representative Young are welcomed. Also, if I may, like your hearing last year on H.R. 94 which would reaffirm the United States commitment to the right of self-determination for colonial peoples, your leadership in trying to come to grips with the ongoing violation of the human rights of people of non-self-governing territories is laudable.

If I may, Mr. Chairman, I would like to comment on the bill before the committee with reference to the earlier version submitted by Representative Young and additional references to Guam's unique circumstances.

The present bill and the previous bill each contain merits which are unfortunately not combined. Representative Young's earlier proposal in H.R. 3715 emphasized the importance of the United States Government coming to terms with the United Nations' decolonization process and the International Decade for the Eradication of Colonialism.



This was an important and progressive step in its promotion of the right of the self-determination for America's remaining colonies. As drafted, the earlier version provided a sanctioned marriage between United States policy and the necessary instruments of international convention with respect to non-self-governing territories under the administering power of the United States.

It might be persuasively argued that achieving the results of decolonization without explicitly referencing the United Nations process is sufficient in this legislation. However, the record and history of United States' inaction on the issue of self-determination, almost 50 years of inaction in addressing self-determination for the people of the remaining territories, necessitates that United States policy come to terms with responsibility within a framework that is clearly defined and understood. The processes of international law are clear, they are understood, and the United States Government is as responsible to them as was South Africa in Namibia or as is France in New Caledonia.

Other things are certain in international convention with respect to the right of colonial peoples to self-determination. The right is not extinguishable and constitutional standards of the administering power are never acceptable as limits on that exercise. Moreover, so long as colonialism continues, the administering power is responsible for the violation of fundamental human rights of colonial peoples. Thus, the references in the earlier version of this measure to the international decolonization process were particularly appropriate in that they would provide policy direction to the United States Government to do the right thing.

The drawback of the earlier version, however, was its incomplete focus on only one of the status options available to colonial people in terminating a colonial status. I will not dwell on this matter, but it is significant to note that the termination of a colonial status through the option of integration would have to be nothing less than statehood in the United States system. Anything short of statehood would not qualify under the United Nations guidelines of Resolution 1541 as a decolonized status.

Additionally, by limiting the several determination status options to just Articles of Incorporation, the other internationally condoned options, for example, free association and independence, were passed over by the earlier version.

The current measure, while it omits reference to what was described as the foundation of the earlier version, self-determination and decolonization, incorporates new language. Some of this new language broadens the options available to the people of the non-States in achieving self-government, albeit not as clearly as the internationally understood processes. This is a noteworthy enhancement over the previous measure, although it would be clearer if these options explicitly mirrored the options recognized by international standards in terminating a colonial relationship.

There is no need to try to reinvent the wheel here. For over three decades, the options of integration, free association, and independence have been understood as the only legitimate political status options for terminating a colonial relationship. As I will discuss later, these are the options which the Chamorro people of Guam



would have available to them in exercising self-determination pursuant to the provisions of the Commonwealth Act.

In addition to including the international decolonization process, and clearly defining the options available to colonial peoples in a manner consistent with international definitions, other aspects of the measure also require attention. First, H.R. 4442's substitution of self-determination as used in the earlier version with self-government understates the right of colonial peoples to attain a decolonized status.

I do not mean to be glib, but in some quarters, the people of the territories are already said to be self-governing. This is of course ridiculous, but to be sure, there are those who now believe that our colonial status gives us self-government. Moreover, it is possible that the United States Government might extend new powers of self-government or empowerment without satisfying the international standards of decolonization which the United States Government is obligated to uphold.

More specifically, the Guam Commonwealth Act which would clearly grant Guam new and broad powers of self-government would not be an act of self-determination. Mr. Chairman, as I outlined before you and the committee last year, as a result of the continuing immigration policies of the United States Government, we have called on the Congress to recognize—consistent with international standards—that it is the colonized people of Guam, or the Chamorro people, who must be acknowledged as those who exercise self-determination for Guam. Only the colonized have a right to self-determination in the decolonization process.

Finally, with respect to the proposed measure, the final section appears to inadvertently obtrude the process which Guam has embarked on with the Administration, pursuant to the direction of this committee. It is a product of Federal or territorial authorization. This provision then makes it clear that Guam's ongoing decisions would not be affected by this measure since it is a product of Guam law.

Mr. Chairman, as directed by you in Honolulu in December of 1989, we continue to work with the Administration. Despite our frustration and failed commitments of the previous Administration's task force, we believe that the process of discussions with the new Administration has picked up considerable momentum under the leadership of Dr. I. Michael Heyman. Any suggestion that ongoing efforts would be nullified by this proposal particularly since we have engaged in this discussion pursuant to this committee's directions are unnecessary.

In closing, Mr. Chairman and members of the subcommittee, I would like to commend the author of the measure for his efforts in coming to grips with the continuing colonial practices of this democratic Nation. Further clarification points within the measure are necessary, however, to achieve this objective to you.

Mr. Chairman, I would like to extend my appreciation for your leadership in continuing to promote consideration of legislation that is intended to lead to a process of decolonization through self-determination by the colonial peoples of the remaining territories.

On behalf of the people of Guam, I want to again thank you, express a dangkulo na si yu'us ma'ase and thank you for the opportunity to appear before you.

And as I mentioned earlier, I have submitted the statement of Speaker Joe T. San Agustin and I also want to wish you, Mr. Chairman, in whatever endeavors you undertake after you leave office, we know Guam will be losing a friend in Congress.

Thank you very much.

[Prepared statements of Ms. Lujan and Mr. Ada follow:]

STATEMENT OF SENATOR PILAR C. LUJAN  
VICE CHAIR, GUAM COMMISSION ON SELF-DETERMINATION  
ON H.R. 4442

BEFORE THE  
HOUSE NATURAL RESOURCES SUBCOMMITTEE ON  
INSULAR AND INTERNATIONAL AFFAIRS

MAY 24, 1994

STATEMENT OF SENATOR PILAR C. LUJAN  
VICE CHAIR,  
GUAM COMMISSION ON SELF-DETERMINATION  
ON H.R. 4442

BEFORE THE  
HOUSE NATURAL RESOURCES SUBCOMMITTEE ON  
INSULAR AND INTERNATIONAL AFFAIRS

MAY 24, 1994

MR. CHAIRMAN, MEMBERS OF THE HOUSE NATURAL RESOURCES SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS, THANK YOU FOR THE OPPORTUNITY TO COMMENT ON H.R. 4442. I AM PILAR CRUZ LUJAN, A SENATOR OF THE 22ND GUAM LEGISLATURE AND VICE-CHAIRPERSON OF THE GUAM COMMISSION ON SELF-DETERMINATION.

FIRST, ALLOW ME TO EXTEND THANKS TO REPRESENTATIVE DON YOUNG FOR HIS EFFORTS ... THOSE OF LAST YEAR AS REFLECTED IN H.R. 3715, AND IN THE NEW PROPOSAL H.R. 4442 ... TO ADDRESS THE ISSUE OF POLITICAL STATUS OF THE REMAINING COLONIES UNDER THE ADMINISTERING POWER OF THE UNITED STATES. THE FACT THAT A NATION AS GREAT AS THE UNITED STATES MAINTAINS DEPENDENCIES AS WE NEAR THE END OF THE 20TH CENTURY IS AN AFFRONT TO HUMAN RIGHTS AND ALL AMERICAN IDEALS OF DEMOCRACY. AS HAS BEEN NOTED IN NUMEROUS INSTRUMENTS OF THE UNITED NATIONS AND BY AUTHORITIES OF INTERNATIONAL LAW

"UNDER CONTEMPORARY INTERNATIONAL LAW, COLONIALISM IS AN INTERNATIONAL CRIME...THE CRIMINAL CHARACTER OF COLONIALISM AND OF THE ACTS BY WHICH IT IS PRACTICED CALLS FOR EMPHASIS..."

IN THIS REGARD, THE EFFORTS OF REPRESENTATIVE YOUNG ARE WELCOMED. ALSO, IF I MAY MR. CHAIRMAN, LIKE YOUR HEARING LAST YEAR ON H.R.94 WHICH WOULD REAFFIRM THE U.S COMMITMENT TO THE RIGHT OF SELF-DETERMINATION FOR COLONIAL PEOPLES, YOUR LEADERSHIP IN TRYING TO COME TO GRIPS WITH THE ONGOING VIOLATION OF THE HUMAN RIGHTS OF THE PEOPLE OF NON-SELF-GOVERNING TERRITORIES IS LAUDABLE.

IF I MAY, MR. CHAIRMAN, I WOULD LIKE TO COMMENT ON THE BILL BEFORE THE COMMITTEE, WITH REFERENCE TO THE EARLIER VERSION SUBMITTED BY REPRESENTATIVE YOUNG, AND ADDITIONAL REFERENCES TO GUAM'S UNIQUE CIRCUMSTANCES.



MR. CHAIRMAN AND MEMBERS, THE PRESENT BILL AND THE PREVIOUS BILL EACH CONTAIN MERITS WHICH ARE UNFORTUNATELY NOT COMBINED. REPRESENTATIVE YOUNG'S EARLIER PROPOSAL (H.R. 3715) EMPHASIZED THE IMPORTANCE OF THE UNITED STATES GOVERNMENT COMING TO TERMS WITH UNITED NATIONS DECOLONIZATION PROCESS, AND THE INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM.

THIS WAS AN IMPORTANT AND PROGRESSIVE STEP IN ITS PROMOTION OF THE RIGHT OF SELF-DETERMINATION FOR AMERICA'S REMAINING COLONIES. AS DRAFTED, THE EARLIER VERSION PROVIDED A SANCTIONED MARRIAGE BETWEEN U.S. POLICY AND THE NECESSARY INSTRUMENTS OF INTERNATIONAL CONVENTION WITH RESPECT TO NON-SELF-GOVERNING TERRITORIES UNDER THE ADMINISTERING POWER OF THE UNITED STATES. IT MIGHT BE PERSUASIVELY ARGUED THAT ACHIEVING THE RESULTS OF DECOLONIZATION WITHOUT EXPLICITLY REFERENCING THE U.N. PROCESS IS SUFFICIENT IN THIS LEGISLATION. HOWEVER, THE RECORD AND HISTORY OF U.S. INACTION ON THE ISSUE OF SELF-DETERMINATION -- ALMOST 50 YEARS OF INACTION IN ADDRESSING SELF-DETERMINATION FOR THE PEOPLE OF THE REMAINING TERRITORIES -- NECESSITATES THAT U.S. POLICY COME TO TERMS WITH RESPONSIBILITY, WITHIN A FRAMEWORK THAT IS CLEARLY DEFINED AND UNDERSTOOD. THE PROCESSES OF INTERNATIONAL LAW ARE CLEAR, THEY ARE UNDERSTOOD, AND THE U.S. GOVERNMENT IS AS RESPONSIBLE TO THEM AS WAS SOUTH AFRICA IN NAMIBIA OR AS IS FRANCE IN NEW CALEDONIA.

OTHER THINGS ARE CERTAIN IN INTERNATIONAL CONVENTION WITH RESPECT TO THE RIGHT OF COLONIAL PEOPLES TO SELF-DETERMINATION. THE RIGHT IS NOT EXTINGUISHABLE AND CONSTITUTIONAL STANDARDS OF THE ADMINISTERING POWER ARE NEVER ACCEPTABLE AS LIMITS ON THAT EXERCISE. MOREOVER, SO LONG AS COLONIALISM CONTINUES, THE ADMINISTERING POWER IS RESPONSIBLE FOR THE VIOLATION OF FUNDAMENTAL HUMAN RIGHTS OF COLONIAL PEOPLES. THUS, THE REFERENCES IN THE EARLIER VERSION OF THIS MEASURE TO THE INTERNATIONAL DECOLONIZATION PROCESS WERE PARTICULARLY APPROPRIATE IN THAT THEY WOULD PROVIDE POLICY DIRECTION TO THE U.S. GOVERNMENT TO DO THE RIGHT THING.

THE DRAWBACK OF THE EARLIER VERSION, HOWEVER, WAS ITS INCOMPLETE FOCUS ON ONLY ONE OF THE STATUS OPTIONS AVAILABLE TO COLONIAL PEOPLE IN TERMINATING A COLONIAL STATUS. I WILL NOT DWELL ON THIS MATTER, BUT IT IS SIGNIFICANT TO NOTE THAT THE TERMINATION OF A COLONIAL STATUS THOUGH THE OPTION OF "INTEGRATION" WOULD HAVE TO BE NOTHING LESS THAN STATEHOOD IN THE U.S. SYSTEM. ANYTHING SHORT OF STATEHOOD WOULD NOT QUALIFY UNDER THE U.N. GUIDELINES OF RESOLUTION 1541 AS A DECOLONIZED STATUS. ADDITIONALLY, BY LIMITING THE SELF-DETERMINATION STATUS OPTIONS TO JUST "ARTICLES OF INCORPORATION" THE OTHER

INTERNATIONALLY CONDONED OPTIONS (I.E. FREE ASSOCIATION AND INDEPENDENCE) WERE PASSED OVER BY THE EARLIER VERSION.

THE CURRENT MEASURE, WHILE IT OMITTS REFERENCE TO WHAT WAS DESCRIBED AS THE FOUNDATION OF THE EARLIER VERSION (SELF-DETERMINATION AND DECOLONIZATION), INCORPORATES NEW LANGUAGE. SOME OF THIS NEW LANGUAGE BROADENS THE OPTIONS AVAILABLE TO THE PEOPLE OF THE NON-STATES IN ACHIEVING SELF-GOVERNMENT, ALBEIT NOT AS CLEARLY AS THE INTERNATIONALLY UNDERSTOOD PROCESSES. THIS IS A NOTEWORTHY ENHANCEMENT OVER THE PREVIOUS MEASURE, ALTHOUGH IT WOULD BE CLEARER IF THESE OPTIONS EXPLICITLY MIRRORED THE OPTIONS RECOGNIZED BY INTERNATIONAL STANDARDS IN TERMINATING A COLONIAL RELATIONSHIP.

THERE IS NO NEED TO TRY TO REINVENT THE WHEEL HERE. FOR OVER THREE (3) DECADES, THE OPTIONS OF "INTEGRATION", "FREE ASSOCIATION" AND "INDEPENDENCE" HAVE BEEN UNDERSTOOD AS THE ONLY LEGITIMATE POLITICAL STATUS OPTIONS FOR TERMINATING A COLONIAL RELATIONSHIP. AS I WILL DISCUSS LATER, THESE ARE THE OPTIONS WHICH THE CHAMORRO PEOPLE OF GUAM WOULD HAVE AVAILABLE TO THEM IN EXERCISING SELF-DETERMINATION PURSUANT TO THE PROVISIONS OF THE COMMONWEALTH ACT.

IN ADDITION TO INCLUDING THE INTERNATIONAL DECOLONIZATION PROCESS, AND CLEARLY DEFINING THE OPTIONS AVAILABLE TO COLONIAL PEOPLES IN A MANNER CONSISTENT WITH INTERNATIONAL DEFINITIONS, OTHER ASPECTS OF THE MEASURE ALSO REQUIRE ATTENTION. FIRST, H.R. 4442'S SUBSTITUTION OF "SELF-DETERMINATION" AS USED IN THE EARLIER VERSION WITH "SELF-GOVERNMENT" UNDERSTATES THE RIGHT OF COLONIAL PEOPLES TO ATTAIN A DECOLONIZED STATUS. I DO NOT MEAN TO BE GLIB, BUT IN SOME QUARTERS, THE PEOPLE OF THE TERRITORIES ARE ALREADY SAID TO BE SELF-GOVERNING. THIS IS OF COURSE RIDICULOUS, BUT TO BE SURE THERE ARE THOSE WHO NOW BELIEVE THAT OUR COLONIAL STATUS GIVES US SELF-GOVERNMENT. MOREOVER, IT IS POSSIBLE THAT THE U.S. GOVERNMENT MIGHT EXTEND NEW POWERS OF "SELF-GOVERNMENT" OR "EMPOWERMENT" WITHOUT SATISFYING THE INTERNATIONAL STANDARDS OF DECOLONIZATION WHICH THE U.S. GOVERNMENT IS OBLIGATED TO UPHOLD.

MORE SPECIFICALLY, THE GUAM COMMONWEALTH ACT WHICH WOULD CLEARLY GRANT GUAM NEW AND BROAD POWERS OF SELF-GOVERNMENT WOULD NOT BE AN ACT OF SELF-DETERMINATION. MR. CHAIRMAN, AS I OUTLINED BEFORE YOU AND THE COMMITTEE LAST YEAR, AS A RESULT OF THE CONTINUING IMMIGRATION POLICIES OF THE U.S. GOVERNMENT, WE HAVE CALLED ON THE CONGRESS TO RECOGNIZE -- CONSISTENT WITH INTERNATIONAL STANDARDS -- THAT IT IS THE COLONIZED PEOPLE OF GUAM, OR THE CHAMORRO PEOPLE, WHO MUST BE ACKNOWLEDGED AS THOSE WHO EXERCISE SELF-DETERMINATION FOR

GUAM. ONLY THE COLONIZED HAVE A RIGHT TO SELF-DETERMINATION IN THE DECOLONIZATION PROCESS.

FINALLY, WITH RESPECT TO THE PROPOSED MEASURE, THE FINAL SECTION APPEARS TO INADVERTENTLY OBTRUDE THE PROCESS WHICH GUAM HAS EMBARKED ON WITH THE ADMINISTRATION, PURSUANT TO THE DIRECTION OF THIS COMMITTEE.

MR. CHAIRMAN, AS DIRECTED BY YOU IN HONOLULU IN DECEMBER OF 1989 WE CONTINUE TO WORK WITH THE ADMINISTRATION. DESPITE OUR FRUSTRATION AND FAILED COMMITMENTS OF THE PREVIOUS ADMINISTRATION'S TASK FORCE, WE BELIEVE THAT THE PROCESS OF DISCUSSIONS WITH THE NEW ADMINISTRATION HAS PICKED UP CONSIDERABLE MOMENTUM UNDER THE LEADERSHIP OF DR. I MICHAEL HEYMAN. ANY SUGGESTION THAT ONGOING EFFORTS WOULD BE NULLIFIED BY THIS PROPOSAL, PARTICULARLY SINCE WE HAVE ENGAGED IN THESE DISCUSSIONS PURSUANT TO THIS COMMITTEE'S DIRECTIONS, ARE UNNECESSARY.

IN CLOSING, MR. CHAIRMAN AND MEMBERS, I WOULD LIKE TO COMMEND THE AUTHOR OF THE MEASURE FOR HIS EFFORTS IN COMING TO GRIPS WITH THE CONTINUING COLONIAL PRACTICES OF THIS DEMOCRATIC NATION. FURTHER CLARIFICATION OF POINTS WITHIN THE MEASURE ARE NECESSARY, HOWEVER, TO ACHIEVE THIS OBJECTIVE.

TO YOU, MR. CHAIRMAN, I WOULD LIKE TO EXTEND MY APPRECIATION FOR YOUR LEADERSHIP IN CONTINUING TO PROMOTE CONSIDERATION OF LEGISLATION THAT IS INTENDED TO LEAD TO A PROCESS OF DECOLONIZATION THROUGH SELF-DETERMINATION BY THE COLONIAL PEOPLES OF THE REMAINING TERRITORIES.

ON BEHALF OF THE PEOPLE OF GUAM, I WANT TO AGAIN EXPRESS A DANKULO NA SI YU'US MA'ASE AND THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY.

LASTLY, ON BEHALF OF SPEAKER JOE T. SAN AGUSTIN, I AM SUBMITTING HIS TESTIMONY ON THE MEASURE FOR THE RECORD.

TESTIMONY OF JOSEPH F. ADA  
GOVERNOR OF GUAM AND  
&  
CHAIRMAN OF THE GUAM COMMISSION OF SELF-DETERMINATION  
BEFORE THE SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS  
ON H.R. 4442  
A BILL TO PROVIDE FOR CONSULTATIONS FOR THE DEVELOPMENT OF  
ARTICLES OF RELATIONS AND SELF-GOVERNMENT FOR INSULAR AREAS  
OF THE UNITED STATES

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR OFFERING GUAM THE OPPORTUNITY TO TESTIFY TODAY ON THIS IMPORTANT INITIATIVE. I AM JOSEPH F. ADA, GOVERNOR OF GUAM AND CHAIRMAN OF GUAM'S COMMISSION ON SELF DETERMINATION.

THE COMMISSION ON SELF-DETERMINATION IS PRESENTLY ENGAGED IN A PROCESS WITH THE CLINTON ADMINISTRATION WHICH WE BELIEVE PRESENTS A LEGITIMATE OPPORTUNITY TO ACHIEVE OUR GOAL OF A COMMONWEALTH RELATIONSHIP WITH THE UNITED STATES. EMPLOYING A PROCEDURE WITH MANY OF THE SAME ELEMENTS FOUND PROPOSED IN THIS BILL, WE ARE WORKING WITH A PERSONAL REPRESENTATIVE APPOINTED BY SECRETARY BABBITT WITH THE CONCURRENCE OF THE PRESIDENT. OUR INTENTION IS TO REACH A CONSENSUS ON AS MANY ISSUES AS POSSIBLE WITH THE ADMINISTRATION AND THEN BRING THE RESULTS TO CONGRESS FOR FURTHER DELIBERATIONS.



BECAUSE THE DISCUSSIONS WE ARE HAVING WITH THE ADMINISTRATION ARE CONSISTENT WITH APPLICABLE LAWS OF GUAM, WE UNDERSTAND THE BILL IS NOT INTENDED TO TOUCH DIRECTLY UPON OR INTERFERE WITH THE PROCESS IN WHICH WE ARE ENGAGED. BUT WE SUGGEST THAT THIS BE DEALT WITH EVEN MORE DIRECTLY IN SECTION 4. THUS, WE APPEAR TODAY BECAUSE YOUR DELIBERATIONS ON THIS IMPORTANT PROPOSAL MAY WELL BENEFIT FROM OUR EXPERIENCES IN GUAM'S EFFORTS TO ACHIEVE A COMMONWEALTH RELATIONSHIP BASED ON A PARTNERSHIP AND MUTUAL RESPECT.

THE INSULAR AREAS SHOULD NOT HAVE TO EXPERIENCE WHAT GUAM WENT THROUGH IN ORDER TO ENGAGE THE FEDERAL GOVERNMENT IN A LEGITIMATE POLITICAL STATUS PROCESS BASED ON A GOOD FAITH COMMITMENT TO CHANGE , APPLICABLE U.S. AND INTERNATIONAL PRINCIPLES OF SELF-DETERMINATION, AND A CLEAR, THOUGHTFUL, COMMON-SENSE POLICY WHICH PROMOTES BUT DOES NOT REACH BEYOND VALID FEDERAL INTERESTS. ALTHOUGH WE HAVE MUCH STILL TO DO, GUAM PERSERVED AND OVERCAME THE HISTORICAL RESISTENCE OF THE FEDERAL GOVERNMENT TO ENGAGE IN A MEANINGFUL PROCESS.

CONSEQUENTLY, WE ARE HERE TODAY TO BE CONSTRUCTIVE IN SUPPORT OF YOUR EFFORTS TO CREATE A MEANINGFUL FRAMEWORK FOR INSULAR POLITICAL STATUS CHANGE, SO THAT PAST EFFORTS OF SOME IN THE FEDERAL

GOVERNMENT TO STONEWALL INSULAR AREAS ON STATUS ISSUES WILL NOT EASILY BE REPEATED.

AT THE OUTSET, I WISH TO COMMEND CONGRESSMAN YOUNG FOR HIS INITIATIVE. THERE CAN NO LONGER BE ANY POLITICAL OR MILITARY JUSTIFICATION FOR THE UNITED STATES, THE LEADER OF THE DEMOCRATIC WORLD, MAINTAINING COLONIES, OR UNINCORPORATED TERRITORIES AS THEY HAVE BEEN EUPHEMISTICALLY CALLED IN WASHINGTON. THE POLITICAL STATUS OF THE TERRITORIES MUST BE ADDRESSED BY THE UNITED STATES AND BY THE PEOPLE OF THE TERRITORIES THEMSELVES. IT IS TIME FOR THE UNITED STATES TO PROVIDE A MECHANISM FOR COMPLETING THE PROCESS BEGUN WHEN IT AGREED AT THE UNITED NATIONS THAT NON-SELF-GOVERNING TERRITORIES MUST BE PROVIDED WITH AN OPPORTUNITY OF SELF-DETERMINATION.

CONGRESSIONAL GUIDANCE ON A CAREFULLY THOUGHT THROUGH PROCESS TO ACHIEVE SELF -GOVERNMENT AND SELF- DETERMINATION FOR THE TERRITORIES IS A CRITICAL STEP AS THE UNITED STATES SEEKS TO MEET ITS INTERNATIONAL OBLIGATIONS TO PROMOTE SELF-DETERMINATION FOR ITS NON-SELF-GOVERNING TERRITORIES.

WHILE WE ARE NOW ENGAGED IN A PROCESS QUITE SIMILAR TO THAT WHICH WE UNDERSTAND THE BILL SEEKS TO IMPLEMENT, OUR EXPERIENCE OVER THE LAST SEVERAL YEARS DEMONSTRATES THE DESIRABILITY OF CONGRESSIONAL GUIDANCE SO THAT FUTURE EFFORTS ARE NOT SO TIME CONSUMING AND FRUSTRATING.

WHEN GUAM INITIATED THE QUEST FOR A COMMONWEALTH RELATIONSHIP, IT ASSUMED THERE FIRST WOULD BE NEGOTIATIONS WITH THE EXECUTIVE BRANCH IN CONSULTATION WITH THE CONGRESS FOLLOWED BY CONGRESSIONAL ACTION BEFORE FINAL PRESENTATION TO THE PEOPLE OF GUAM. THIS PROCESS, HOWEVER, WAS REJECTED BY THE EXECUTIVE BRANCH BASED ON A POLICY ADOPTED BY THE DEPARTMENT OF INTERIOR IN THE EARLY 1980's WHICH MAINTAINED THAT POLITICAL STATUS CHANGES FOR THE TERRITORIES WERE EXCLUSIVELY WITHIN THE DOMAIN OF THE CONGRESS. WHAT WAS CLAIMED TO BE DEFERENCE TO CONGRESS WAS ACTUALLY EMPLOYED TO ABDICATE EXECUTIVE BRANCH RESPONSIBILITY TO SET POLICY ON STATUS ISSUES.

AS A RESULT, GUAM PURSUED THE APPROACH RECOMMENDED TO IT IN THE NOW-FAMOUS ALBUQUERQUE CONSULTATIONS AND ADOPTED A DRAFT COMMONWEALTH ACT. WHEN THIS ACT WAS INTRODUCED INTO CONGRESS AND AN INITIAL HEARING WAS HELD IN 1989, THIS COMMITTEE ASKED THAT WE

INITIATE TALKS WITH THE EXECUTIVE BRANCH PRIOR TO PURSUING FURTHER CONGRESSIONAL ACTION. WHEN WE FIRST SOUGHT TALKS WITH THE BUSH ADMINISTRATION, WE WERE REBUFFED DUE TO THE PREEXISTING POLICY BARRING SUCH DISCUSSIONS. ULTIMATELY WE DID ENGAGE IN DISCUSSIONS BUT, AS WE ALL NOW KNOW, THEY WERE NOT TAKEN SERIOUSLY AT A POLITICAL LEVEL BY SOME IN THE BUSH ADMINISTRATION, AND WHEN IT APPEARED WE HAD ACTUALLY MADE PROGRESS THE RESULTS WERE REPUDIATED BY THESE SAME DECISION MAKERS AS THEY LEFT OFFICE.

AS I STATED ABOVE, WE ARE NOW ENGAGED IN A PROCESS WHICH APPEARS DESTINED FOR A SUCCESSFUL CONCLUSION IF NOT AGAIN DERAILED BY THE ELEVENTH HOUR EFFORTS OF THOSE WHO OPPOSE CHANGE. WHEN WE HAVE COMPLETED OUR WORK, WE WILL BRING THE RESULTS TO CONGRESS TOGETHER WITH THE ADMINISTRATION. HOPEFULLY, YOUR EFFORTS TODAY WILL HELP ESTABLISH A WILL IN CONGRESS TO MOVE FORWARD WITH CONSIDERATION AND ULTIMATELY ADOPTION OF THE WORK PRODUCT WE WILL PRESENT.

IN ORDER TO ENSURE AN ADEQUATE GROUND WORK IS LAID, WE SUGGEST THE FOUNDATION OF THE LEGISLATION SHOULD BE A RECOGNITION THAT THE PEOPLE OF THE TERRITORIES MUST HAVE AN OPPORTUNITY TO ACHIEVE BOTH SELF-GOVERNMENT AND SELF-DETERMINATION, BUT NOT



NECESSARILY AS A RESULT OF A SINGLE NEGOTIATION. I MAKE THIS DISTINCTION BECAUSE IT IS CRITICAL ALL RECOGNIZE THESE ARE NOT INTERCHANGEABLE CONCEPTS. SELF-GOVERNMENT REFERS TO THE SYSTEM OF GOVERNMENT ADOPTED BY THE PEOPLE OF A TERRITORY. UNDER THE U.S. SYSTEM, AS IT HAS BEEN INTERPRETED BY THE COURTS, ACHIEVING A SUBSTANTIAL DEGREE OF SELF- GOVERNMENT DOES NOT NECESSARILY MEAN THE PEOPLE OF THE TERRITORIES HAVE EXERCISED SELF-DETERMINATION.

IN THIS REGARD, I NOTE MANY OFTEN CONSIDER GUAM AS HAVING A SUBSTANTIAL DEGREE OF SELF-GOVERNMENT. IT IS TRUE WE ELECT OUR OWN GOVERNOR AND LEGISLATURE AND ARE RESPONSIBLE FOR MANY OF OUR DAILY AFFAIRS. OTHER TERRITORIES HAVE ACHIEVED SIMILAR LEVELS. OUR GOAL IN COMMONWEALTH IS TO EXPAND SELF-GOVERNMENT AND PROTEST IT AGAINST UNILATERAL CHANGES BY ESTABLISHING A PARTNERSHIP WITH THE UNITED STATES BASED ON MUTUAL CONSENT. EVEN IF GUAM OBTAINS A GREATER DEGREE OF SELF GOVERNMENT, WE HAVE NEVER BEEN GIVEN THE OPPORTUNITY TO EXERCISE SELF-DETERMINATION. EVEN THE FIRST FEDERAL EXECUTIVE TASK FORCE REPORT ON GUAM COMMONWEALTH ISSUED IN 1989 VIVIDLY EXPRESSED THIS COMPELLING FACT. ADDRESSING GUAM'S QUEST FOR SELF DETERMINATION FOR THE INDIGENOUS PEOPLE OF GUAM, THE TASK FORCE CONCLUDED THAT:

"[O]THERS AMONG GUAM'S CURRENT RESIDENTS

HAVE HAD A CHOICE (OF SELF-DETERMINATION) :  
 STATESIDERS, ASIANS, MICRONESIANS FROM THE  
 FORMER TRUST TERRITORY, AND OTHER RESIDENTS  
 HAVE ACTED VOLUNTARILY TO COME TO GUAM  
 KNOWING OF GUAM'S STATUS. GUAM'S NEIGHBORS  
 IN THE PACIFIC -- THE PEOPLE OF THE FREELY  
 ASSOCIATED STATES, AND THE PEOPLE OF THE  
 NORTHERN MARIANAS -- WERE AFFORDED A CHANCE  
 TO VOTE ON WHETHER THEY APPROVE THE TERMS OF  
 THEIR RELATIONSHIP WITH THE UNITED STATES.  
 BUT THE CHAMORRO PEOPLE OF GUAM HAVE BEEN  
 GIVEN NO SUCH OPPORTUNITY -- NOT IN 1899  
 WHEN GUAM WAS CEDED TO THE UNITED STATES BY  
 SPAIN, NOT IN 1950 WHEN THE ORGANIC ACT WAS  
 PASSED AND THE PEOPLE OF GUAM BECAME CITIZENS  
 OF THE UNITED STATES, NOR AT ANY OTHER TIME."

(EMPHASIS ADDED) REPORT AT 9.

MR. CHAIRMAN IN OUR VIEW A DEGREE OF SELF-GOVERNMENT CAN BE  
 ACHIEVED WITHIN THE U.S. SYSTEM WITHOUT AN ACT OF SELF-  
 DETERMINATION, BUT FULL SELF-GOVERNMENT CAN NEVER EXIST WITHOUT A  
 FREE EXERCISE OF SELF-DETERMINATION BY THE PEOPLE OF NON-SELF-

GOVERNING TERRITORIES. I HOPE THIS DISTINCTION WILL BE RECOGNIZED IN THIS LEGISLATION. I BELIEVE IT WAS A PART OF THE INITIAL PROPOSAL RELEASED IN NOVEMBER OF 1993, WHICH APPEARED TO RECOGNIZE THAT AN ACT OF SELF-DETERMINATION CONSISTENT WITH INTERNATIONAL LAW WAS NECESSARY. THE CURRENT PROPOSAL SEEMS TO FOCUS MORE ON THE PROCESS FOR ACHIEVING FULLER SELF GOVERNMENT WITHOUT ADDRESSING DIRECTLY WHETHER THIS WILL INVOLVE AN ACT OF SELF-DETERMINATION.

BY RAISING THIS WE ARE NOT CRITICAL OF THE BILL'S GOALS. WE AGREE COMPLETELY THAT THE TWO CONCEPTS CAN BE TREATED SEPARATELY AND THAT IS HOW WE ARE APPROACHING THEM IN OUR COMMONWEALTH PROPOSAL. COMMONWEALTH ESTABLISHES A FULLER MEASURE OF SELF-GOVERNMENT FOR GUAM, AND PROVIDES A PROCESS FOR THE ULTIMATE ACT OF SELF-DETERMINATION.

BUT IT IS IMPORTANT THAT THE DISTINCTION BE CLEARLY DRAWN. IF THE PEOPLE OF A TERRITORY ARE GOING TO ALTER THEIR POLITICAL RELATIONSHIP WITH THE UNITED STATES, THEY MUST CLEARLY UNDERSTAND WHETHER THE STEP THEY TAKE IS THEIR FINAL ACT OF SELF-DETERMINATION OR WHETHER THEY ARE ACHIEVING A GREATER MEASURE OF SELF-GOVERNMENT AS A STEP IN AN EVOLUTIONARY PROCESS TOWARD SELF-DETERMINATION.

THE PEOPLE OF GUAM CANNOT BE EXPECTED TO EXERCISE SELF-DETERMINATION UNTIL THEY KNOW THE FORM OF SELF-GOVERNMENT THE UNITED STATES IS PREPARED TO ACCEPT FOR GUAM, AN INSULAR AREA FOR WHOM STATEHOOD IS NOT AVAILABLE.

IN THIS REGARD, I NOTE THE PURPOSE SECTION OF THE MOST RECENT PROPOSAL ADDRESSES DIRECTLY ACHIEVING A FULL MEASURE OF SELF-GOVERNMENT, BUT ADDRESSES ONLY INDIRECTLY WHETHER AN ACT OF SELF-DETERMINATION IS TO OCCUR. WITHOUT SELF-DETERMINATION THERE IS NO FULL OR COMPLETE SELF-GOVERNMENT.

IN THIS CONNECTION WE ALSO WOULD NOTE THE REVISED BILL REFERS TO "POLITICAL INTEGRATION INTO THE UNITED STATES" WHICH IS ONE OF THE INTERNATIONALLY RECOGNIZED POLITICAL STATUSES THAT CAN RESULT ONLY AFTER AN ACT OF SELF-DETERMINATION. THE OTHERS ARE FREE ASSOCIATION AND INDEPENDENCE, AND WE SUGGEST THESE TOO BE INCLUDED AS OPTIONS AVAILABLE FROM THE NEGOTIATING PROCESS YOU INTEND TO OFFER.

THE PURPOSE SECTION ALSO REFERS TO OTHER STATUS DEFINING "ARRANGEMENTS WITH THE UNITED STATES". THESE COULD INCLUDE, OF COURSE, FREE ASSOCIATION OR INDEPENDENCE. THEY COULD ALSO INCLUDE THE RESULT GUAM SEEKS -- ENHANCED SELF GOVERNMENT AS A PRECURSOR



TO THE FINAL ACT OF SELF-DETERMINATION. UNDER SUCH A RELATIONSHIP, THE UNITED STATES WOULD ENHANCE TERRITORIAL SELF GOVERNMENT BY BEGINNING TO DISPOSE OF SOME OF ITS TERRITORIAL CLAUSE AUTHORITY, PASSING THIS AUTHORITY TO THE TERRITORIES, BUT RETAINING THOSE POWERS LEFT TO IT BY TERMS OF THE ACT ESTABLISHING THE COMMONWEALTH RELATIONSHIP. WE BELIEVE A BILL WHICH IS SUFFICIENTLY FLEXIBLE TO PERMIT ANY ONE OF THESE ALTERNATIVES IS IN THE BEST INTEREST OF BOTH THE UNITED STATES AND THE PEOPLE OF THE TERRITORIES.

WE RAISE THIS, IN PART, BECAUSE THE BILL SEEMS TO CONTEMPLATE A FORM OF INCORPORATION WHICH VARIES FROM THAT TRADITIONALLY THOUGHT NECESSARY TO MEET U.S. CONSTITUTIONAL REQUIREMENTS AND TO FULFILL THE UN MANDATE ON DECOLONIZATION. EVER SINCE 1901 WHEN THE SUPREME COURT DECIDED THE *INSULAR CASES*, THE MEANING OF *INCORPORATION* IN THE AMERICAN CONSTITUTIONAL SYSTEM HAS BEEN FIXED. IT APPLIES TO A GEOGRAPHIC AREA NOT YET A STATE, WHICH IS PART OF AN INDISSOLUBLE UNION, AND WHICH IS DESTINED FOR STATEHOOD. THE STATEHOOD COMPONENT OF THE PROMISE IS ESSENTIAL BECAUSE INCORPORATION , AS USED IN INTERNATIONAL LAW AND PRACTICE UNDER THE UN CHARTER, MEANS THAT THE CITIZENS OF THE INCORPORATED TERRITORY HAVE FULL EQUAL RIGHTS WITH THE OTHER CITIZENS OF THE SAME GOVERNMENT. IN THE U.S. SYSTEM, HOWEVER, THERE IS NO WAY CITIZENS OF

A TERRITORY, EVEN IF INCORPORATED UNDER THIS PROPOSAL, CAN ELECT ELECTORS WHO WILL VOTE FOR THE PRESIDENT, VOTE FOR TWO VOTING SENATORS AND AT LEAST ONE VOTING DELEGATE WITHOUT A CONSTITUTIONAL AMENDMENT. IN THE U.S. SYSTEM, THESE ATTRIBUTES ARE ESSENTIAL TO EQUALITY OF PARTICIPATION IN THE POLITICAL SYSTEM.

ANOTHER IMPORTANT LESSON WE HAVE LEARNED IS THAT THE PROCESS OF ESTABLISHING A RELATIONSHIP WITH THE UNITED STATES, WHETHER DIRECTED AT A FULLER MEASURE OF SELF-GOVERNMENT OR AT THE MORE FUNDAMENTAL ACT OF SELF-DETERMINATION, CANNOT BE HASTILY COMPLETED. OUR MICRONESIAN NEIGHBORS WHO HAVE ENTERED INTO A FREE ASSOCIATION RELATIONSHIP BEGAN THEIR PROCESS IN THE LATE 1960'S. THE MARSHALL ISLANDS AND FEDERATED STATES OF MICRONESIA TOOK 16 YEARS TO COMPLETE THEIR WORK AND PALAU IS ONLY NOW IMPLEMENTING ITS RELATIONSHIP.

GUAM STARTED ITS POLITICAL STATUS PROCESS IN 1984 AND HAS BEEN ENGAGED IN TALKS WITH THE EXECUTIVE BRANCH FOR 5 YEARS. SUCH LENGTHY DELAYS ARE UNNECESSARY AND WE APPLAUD THE INTENTION BEHIND YOUR PROPOSAL TO PLACE TIME DEADLINES ON THE PROCESS. AT THE SAME TIME, WE WOULD LIKE TO CAUTION THAT POLITICAL STATUS NEGOTIATIONS CANNOT BE RUSHED TO COMPLETION. THEY ARE

EVOLUTIONARY IN NATURE AND UNREALISTIC DEADLINES COULD LEAD TO MISTAKES AND DISENCHANTMENT ONCE THE RELATIONSHIP IS IN PLACE. TO SOME EXTENT, MANY BELIEVE THAT THE PROBLEMS WHICH EXIST IN THE RELATIONSHIP BETWEEN THE MARIANA ISLANDS AND THE UNITED STATES EXIST BECAUSE THE PROCESS WAS A HASTY ONE.

WITH THIS AS BACKGROUND, WE SUGGEST THAT NO LIMIT BE ESTABLISHED ON WHEN A TERRITORY CAN SEEK APPOINTMENT OF A PRESIDENTIAL REPRESENTATIVE. AS EACH TERRITORY BECOMES READY, IT SHOULD HAVE THE RIGHT TO SUCH AN APPOINTMENT WHETHER ITS IS BY DECEMBER 31, 1997 OR SOMETIME THEREAFTER. MOREOVER, THE ONE YEAR REPORTING DEADLINE AFTER THE APPOINTMENT MAY NOT PROVIDE SUFFICIENT TIME TO CRAFT A STABLE POLITICAL RELATIONSHIP. EACH TERRITORY IS UNIQUE AND EACH WILL HAVE DIFFERENT CIRCUMSTANCES WHICH MUST BE ADDRESSED. MEETING THE DEMANDS OF THESE CIRCUMSTANCES OFTEN REQUIRES COMPLICATED NEGOTIATIONS AND CHANGED FEDERAL POLICY. THIS TAKES TIME. AT THE SAME TIME, CONGRESS CANNOT PERMIT OTHERS TO FACE THE DELAYS WHICH HAVE CONFRONTED GUAM. WE SUGGEST A TWO YEAR PERIOD BE ESTABLISHED FOR THE COMPLETION OF NEGOTIATIONS AFTER THE REPRESENTATIVE HAS BEEN APPOINTED WITH A PROGRESS REPORT REQUIRED AT THE END OF THE FIRST YEAR. WE ALSO SUGGEST A MECHANISM BE AUTHORIZED TO EXTEND THE

DEADLINES, IF NECESSARY. BY ADOPTING THIS APPROACH, THE CONGRESS CAN CREATE A FAST TRACK NEGOTIATING PROCESS WHICH HAS FLEXIBILITY BUILT INTO IT SO THAT HASTE DOES NOT LEAD TO AN ILL-CONCEIVED OR UNSTABLE ARRANGEMENT.

THE GOAL OF FLEXIBILITY ALSO SHOULD BE CONSIDERED WITH RESPECT TO THE PROCEDURE FOR APPROVAL OF INSTRUMENTS OF SELF-GOVERNMENT, AND PLEBISCITES TO DETERMINE THE WISHES OF THE PEOPLE BEFORE AN ARRANGEMENT IS NEGOTIATED SHOULD NOT BE PRECLUDED, EVEN IF THE BILL FOCUSES ON POPULAR APPROVAL OF THE MEASURE RATIFIED BY CONGRESS.

MR. CHAIRMAN AND CONGRESSMAN YOUNG -- I WANT TO THANK YOU AGAIN FOR THIS IMPORTANT INITIATIVE. AT LONG LAST, WE FEEL THE UNITED STATES IS TAKING IMPORTANT STEPS TO END ITS COLONIAL RELATIONSHIPS. WE ARE ENCOURAGED BY THE PROCESS IN WHICH WE ARE ENGAGED. WE ARE ALSO ENCOURAGED THAT YOU ARE MOVING TO ADOPT A PROCESS WHICH CAN BE USED BY ALL TERRITORIES AS THEY MOVE TOWARD A GREATER DEGREE OF SELF-GOVERNMENT OR ULTIMATELY EXERCISE THEIR RIGHT OF SELF-DETERMINATION. WE BELIEVE THAT THE COORDINATION BETWEEN THE EXECUTIVE AND CONGRESSIONAL BRANCHES OF GOVERNMENT WHICH WILL RESULT FROM YOUR BILL ARE LONG OVERDUE. WE LOOK FORWARD TO WORKING WITH YOU TO IMPLEMENT A SUCCESSFUL PROCESS.



Mr. DE LUGO. Thank you very much, Senator Lujan. And the Speaker's statement will be placed in the record in its entirety without objection.

[Prepared statement of Mr. Agustin follows:]



SENATOR JOE T. SAN AGUSTIN (D)  
SPEAKER

## Office of the Speaker

TWENTY-SECOND GUAM LEGISLATURE

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May 20, 1994

Hon. Ron de Lugo  
Chairman  
House Subcommittee on Insular  
& International Affairs  
1626 Longworth House Office Bldg.  
Washington D.C. 20515

Dear Mr. Chairman,

I am pleased to submit this letter as testimony on Rep. Don Young's H.R. 3715 providing for development of Articles of Relations and Self-Government for U.S. Territories. If I may, I also would like to convey my compliments to this Subcommittee for your continued attention to political status issues concerning the Territories. Thank you also for permitting Senator Pilar C. Lujan to present this testimony on my behalf.

To begin with, I would like to express my appreciation to Congressman Young for his interest in resolving the outstanding political status questions regarding the Territories. Certainly for Guam, this has been a pressing matter since the end of World War II. At that time, there was a complete lack of political empowerment for the Guam's people, inasmuch as we had no U.S. Citizenship, no elected Governor, no elected Legislature, and no representation at all at the federal level. Over the past 40 years, these goals have been largely achieved but the fundamental question of Guam's political relationship with the U.S. remains an unresolved matter.

In an effort to provide a real solution for this problem, Guam has embarked on in its present Quest for Commonwealth as embodied in Del. Underwood's H.R. 1521. The Commonwealth Bill sets out clearly the terms for a new relationship with the Federal Government built on the basis of self-determination for Guam's people. Until recently though, our community has been frustrated but what we perceive as a lack of substantial action or even serious attention by the federal government on this question of political status. It is the absence of a just resolution of this problem that is at the heart of virtually every current dispute between Guam and the Federal Government,

Del. Ron de Lugo  
May 20, 1994  
Page No. 2

ranging from excess land to the regulatory constraints on our economy. Indeed, such disputes are likely to continue or even multiply until this issue is fully addressed.

It is for this reason, that I welcomed Rep. Young's introduction of legislation seeking the resolution of outstanding political status relationships in the Territories. As I stated in my letter to Rep. Young on this subject, the value of his proposal is that it establishes a mechanism for coming to grips with the issue of political status in the case of each Territory. Given the history of federal inaction on such concerns, any effort that contributes to the solution of these problems should, in my opinion, be considered a positive development

The original Young bill provided for the submission of Articles of Incorporation and their review by the Executive Branch according to specific deadlines. Guam has, of course, already submitted its terms for a new political relationship with U.S., namely Commonwealth. Its goals of improved self-government and reform of the existing political relationship with the Federal Government are in line with the stated goals of the Young Bill. As I noted in my December 20, 1993 letter to Rep. Young, past efforts relating to Commonwealth, in large part, meet many of the terms of his legislation. For example, the Draft Commonwealth Act could conceivably be considered as the Articles called for under the Young Bill. The provisions of the Commonwealth Act have already been approved by plebescite and submitted by Guam to Congress. As also called for under the Young Bill, there has already been one Executive Branch review of the Commonwealth Act. Although, Guam takes strong exception to many of the conclusions of the Bush Administration Task Force on Guam (BATFOG), it technically meets the Young Bill proviso for such a review. Of course, the Clinton Administration is in the process of preparing its own review of Commonwealth which I understand should be completed in the very near future. Having met though the technical requirements of the Young Bill, the way would be cleared, under such mechanism, for the immediate consideration of Congress of H.R. 1521.

I am very pleased to learn that, in his revised version of his legislation, the term "Articles" has been broadened beyond the classical definition of Incorporation. Rep. Young's continued interest and apparent willingness to consider the views of myself and others from the Territories is indeed gratifying. As stated earlier in my


Del. Ron de Lugo  
May 20, 1994  
Page No. 3

testimony, Mr. Chairman, self-government and a new relationship with U.S. are some of the principle goals of the Commonwealth Act. In my view, the process envisioned under the Young Bill would provide a positive contribution to ongoing efforts to achieve Commonwealth. Again, I commend Rep. Young for his concern for this important issue. I am sure that he appreciates, as I do, that the fundamental problems with federal policy relating to the Territories are due more to neglect than they are due to malicious intent. Indeed, the issue of Guam's political status has been the subject of neglect for almost 100 years now. Great strides have made in granting our people more self-government and representation over the past few decades, but the basic concern regarding our political relationship with the U.S. remains an unresolved one. If Rep. Young, through his legislation, can hasten the day when this concern will finally be acted on by Congress in a serious and substantial manner, he is certainly due our thanks for his interest and concern.

In conclusion, Mr. Chairman, I believe that H.R. 3715 can make a positive contribution to the process of resolving many of the outstanding political status issues relating to the Territories. In Guam's case, our central goal remains the acquisition of Commonwealth Status. To the extent the Young Bill will help the realization of this goal, it is certainly worthy of our support.

Once again, Mr. Chairman, thank you for receiving this testimony as presented by my colleague, Senator Pilar Lujan.

Sincerely,



JOE T. SAN AGUSTIN



Mr. DE LUGO. There is no question that this committee would not want to do anything that would interfere with the process that is ongoing with the President's representative, Dr. Heyman. We understand that progress is being made. It is encouraging the approach that is being taken and we wish you all well. I think that we will want to specify that this legislation would not interfere with that.

Nevertheless, as you know, you were frustrated the last time. We are hopeful for the success of this but we never know how these things are going to turn out. If these talks with the Administration, if the negotiations on commonwealth were unfortunately unsuccessful, this legislation would be available to Guam as an alternative. I certainly hope that doesn't happen, but that is my impression of where this would be helpful to the people of Guam.

Let's just talk about the bill with an understanding that this bill will not impact on the ongoing negotiations. The process that the bill contemplates would leave it to your island's government, for example, to establish the plebiscite that would finally determine Guam's status.

Do you think that would enable Guam to address the issue of Chamorro self-determination?

Ms. LUJAN. As I understand it from the measure, it is different from how we did it. We have a circular process. We did have our plebiscite and this bill, of course, will legitimize the presidential representative by statute. We are seeking approval of Congress, and then it goes back to the people of Guam for approval. So we have more of a circular process than what it is here.

I think the bill, as I understand it, calls first for the presidential representative to talk with the representative of our government or our people and then go to Congress and then have the plebiscite at the end.

Mr. DE LUGO. Well, regarding the negotiations that are going on with the President's representative, Dr. Heyman, do you think that it would be wise perhaps to make this bill flexible enough so that it would institutionalize and formalize in this legislation the negotiations that are going on now with the President's representative?

Ms. LUJAN. I think it is worth——

Mr. DE LUGO. Would that be helpful?

Ms. LUJAN. It would be helpful because we are not in the ultimate process or ultimate goal, and this would allow us to proceed should we succeed in getting the commonwealth. The process is still in place to get us to our ultimate goal whatever that may be.

Mr. DE LUGO. Thank you.

The gentleman from Puerto Rico?

Mr. ROMERO-BARCELÓ. Ms. Lujan, welcome here to Congress. And I just wanted to make a statement to say that not only am I very good friends with your representative here from Guam—he is an outstanding of Member of Congress as already the chairman has indicated—I am united to him by bonds of the fact that I am the godfather to one of his children.

And I am committed to him and I wanted to say that to you publicly, that whatever Guam wants, what everyone supports, they will have my full commitment to help it in whatever you want to get for Guam and whichever way you want it, and it is up to us

in Congress or Puerto Rico or anywhere else to tell you how to go about it.

I think each territory has their own different ideas and concepts and ways that they are going to go about it. And in the case of Guam, I want you to feel that you can always count on me as an additional friend here in Congress.

Thank you.

Ms. LUJAN. Thank you very much for such great support and it is nice that the two of you are compadres.

Mr. DE LUGO. Now we will hear from the gentleman from Guam.

Mr. UNDERWOOD. Thank you very much, Mr. Chairman. I appreciate very much your testimony, Senator Lujan. Just a clarification, and maybe this is trying to figure a way to see how this fits into this bill and this is really thinking out loud, which is very dangerous here. But we will risk it here, one time only.

The Guam Commonwealth Draft Act recognizes that the kind of commonwealth that we are engaged in is not a final act of self-determination and that the final act of self-determination is really one reserved for the Chamorro people of Guam.

And second, that the final act would somehow fit into the international definition of that. Would it be fair to represent that that is kind of the general direction that the commission envisions the process—that not only is the Commonwealth Draft Act not the final act, it doesn't really purport to be the final act of self-determination but it is a dramatic improvement over what we have now.

Frequently, Resident Commissioner Romeró speaks up and talks about how he doesn't wish to have commonwealth any more and he wants to go on to statehood. I usually follow him on the podium and I say, well, what he is trying to throw away, I want to pick up. So in this instance, it is a dramatic improvement over what we have.

But would it be fair to say that the commission, one, doesn't see this as the final act of self-determination and, two, that the final act of self-determination would be one of these internationally recognized acts which would be either for integration as a state, free association, or independence?

Ms. LUJAN. I have always understood it, Congressman Underwood, that the Commonwealth Act proposal is really an interim goal and that we have not really thought of the ultimate that we are hoping that it would be the standards that we have gotten from the United Nations policy.

Mr. UNDERWOOD. I know Mr. Young is not here, but maybe Manase could answer the question or perhaps the chairman in trying to understand in section 4 which has been dealt with repeatedly, how does this affect the process that Guam has engaged in?

Am I to understand that this section 4, which is to be distinguished from the previous section 4, now fully recognizes that our local act is included here whereas the previous section 4 in the first draft indicated that or it didn't say it directly, but it seemed to indicate that this act was not meant to impede any other act which is more or less sanctioned by the Federal Government, but here we have a process which is totally generated by the government of Guam, and so that this section 4 here is purposely worded in that way in order to respect and honor that process?

Mr. DE LUGO. Let's get the answer here from the counsel for the Minority who worked with Congressman Young on this legislation. Mr. Manase Mansur.

Mr. MANSUR. It is a pleasure to respond to Mr. Underwood on this question. On section 4, dealing with the general insular area processes, Mr. Young specifically added this section in response to concerns that had been raised by some of the different areas, including Guam, and the intent here is that this process would not in any way detract or supersede the existing commonwealth process in which Guam is engaged.

It also refers to any process established or initiated pursuant to any Federal or insular area act. An insular area act would include an act of Guam.

Mr. UNDERWOOD. Thank you very much for that. And thank you again, Senator Lujan. I know it is a long and tiring trip.

One of the caucuses that the delegate from American Samoa and I want to organize is the Jet Lag Caucus. And he and I will be the main members of that caucus. And you are an associate member.

Mr. DE LUGO. With that, we will hear from the other member of the Jet Lag Caucus—a very senior member, I might add—the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Jet Lag Caucus, I like that.

I want to thank Senator Lujan for her very well-stated testimony before our committee this afternoon.

Mr. Chairman, I just have a couple of questions for the record, and if Mrs. Lujan would help me. How many years has Guam sought commonwealth with the United States now?

Ms. LUJAN. Twelve years since we had the plebiscite and about seven years now since we started the discussion with the task force.

Mr. FALEOMAVAEGA. Twelve years officially with the U.S. Government?

Ms. LUJAN. Yes.

Mr. FALEOMAVAEGA. And you feel the U.S. Government has not at all been responsive?

Ms. LUJAN. Well, it has been very, very slow, and I just hope that we don't wait until 1998 or the end of the decade to get commonwealth.

Mr. FALEOMAVAEGA. This is what I am concerned about, Senator Lujan. We talk about process. We talk about procedure, and we can come out either with this proposed bill—and as Mr. Mansur stated earlier, it does not in any way affect your current efforts now to negotiate directly with the United States Government with reference to your commonwealth status.

As you all know, your definition of commonwealth is quite different from Puerto Rico's definition of commonwealth, and that definitely has a bearing as well for your future negotiations. What happens if in another three years you don't get anywhere in this Administration?

Ms. LUJAN. We keep pushing, unless there is a change by the people of Guam. But as it is now, they are pretty firm in terms of going through with this process, and we are being very optimistic that we will finally get the stages we want.



Mr. FALEOMAVAEGA. Don't you feel perhaps there has got to be some sense of finality somewhere along the line? Fifteen years? Twenty years? How long is this going to go on?

And I am the last one to respond to say, even the Congress doesn't even know where it is going to go, for that matter even the Administration. I just wanted to get a sense from you, how does the public in Guam feel about this round and round and round? We are just talking until we come to a dead end and we still keep talking about this issue.

Ms. LUJAN. Yes. They are impatient. They have been wondering whether it will ever come to pass, and of course, we kept hoping and we keep trying to encourage them that we are working very hard. But at some point, and very soon I hope, the United States Congress will act on our request for commonwealth.

Like I said, I don't think we should wait for the year 2000 to even do anything while all the other countries are releasing their colonies. I don't see why the United States of America who has promoted decolonization, democracy and all that, the freedom would not give it in that have been in possession since 1898.

I just don't see how the United States can deny us again in this century. Maybe I am very overly optimistic, but we do feel the United States would be more responsive and deal with this matter once and for all. And with Mr. Heyman as the presidential representative, we are encouraged. At least the members of commission are encouraged.

Mr. FALEOMAVAEGA. I just want to say, I share with you the pain and frustration that you as the vice chairman of the commission and other members of the commission and the people of Guam going through this exercise.

And probably no one on this panel knows more about frustration and having gone through the process a gentleman who unfortunately and very credibly is not going to be with us in the next Congress, but I want to share with you the frustrations that are issues affecting your comparable relationship that is not in any way associated with all that we talk about self-determination—freedom, democracy, and justice.

And when you get down to the real bottom-line issue as to why the U.S. with all its ambiguities with reference—and it is not just Guam. Let's look at Palau and the rest of Micronesia. It isn't because of a love of people in Micronesia; it is strategic. And as long as security interests and those advocates in the Department of Defense and the right wingers and the DOD and the State Department are going to say that we need it because it is of strategic importance to the United States, all this talk about freedom and democracy just somehow dissipates.

Mr. FALEOMAVAEGA. And I want to say this in the most realistic terms, and all I can say is I worked with my good friend from Puerto Rico who supports you. And these are some of the real obstacles that we are going to have to face in the coming months and years if these negotiations are really going to get some substance as to the future of Guam.

All I can say is that my heart is with you, and I wish you could have a magic wand to give you the commonwealth that you would desire, but there are forces working within the administration. I



don't care if it is Republican or Democrat, you will always have those forces working against it. And it is probably going to come to the bottom line that the security interests of this country are first, and everything else comes second.

That is my opinion, Mr. Chairman. Thank you.

Ms. LUJAN. Mr. Faleomavaega, let me say thank you for that support and also that I hope it is not going to be an exercise in futility. Of course, I am a realist and members of the commission are realists, too, in that this may be a political decision. But I urge this committee to support our quest for commonwealth, and I hope that it will come to pass before the year 2000.

I thank you very much, Mr. Chairman.

Mr. DE LUGO. Thank you very much, Senator.

Thank you very much, Congressman Faleomavaega.

And anyone listening to the statements here has to feel the frustration that the people of Guam are going through.

Fortunately, the reports that we receive and yourself, Senator, as one of the negotiators, one of the leaders, you have reported that with Dr. Heyman as the President's representative, there appears to be progress being made and that everybody is hopeful that we will get to a point where a package can be forwarded to the Congress and so that we can begin moving on this. Is that your observation?

Ms. LUJAN. We are hopeful.

Mr. DE LUGO. That is your hope, anyway.

Ms. LUJAN. We remain hopeful.

Mr. DE LUGO. Finally, let me say that Senator Lujan said that integration could only be achieved through statehood, but I am informed by the counsel for the Minority for the Republicans that Mr. Young had a larger and broader view when he drafted this legislation.

So let me recognize at this point the counsel for the minority to speak to the question of political integration and how that would work under this legislation.

Mr. MANSUR. Thank you, Mr. Chairman.

Mr. Young, too, felt the frustration from the territories over the years, and in developing the legislation, both the initial one, H.R. 3715, the Articles of Incorporation, and the subsequent one, H.R. 4442, the intent was to provide the option of incorporation that was linked to political empowerment.

And he did not envision that a territory would become incorporated, other than having already in the process figured out that they would either be going on to statehood, if they were a larger entity, or that something had been worked out in the 12-month consultation process to provide the measures that led to political empowerment.

And, in fact, in H.R. 3715, it specifically says the proposed Articles shall include measures that lead to political empowerment and, obviously, except for statehood, or merging with another state, that would entail a constitutional amendment. And as difficult as that may be, if that is what it takes to get political empowerment, Mr. Young wanted to be sure that it was clear that Congress should have the will to see that through.

And so it is not just statehood that is available for political empowerment, but through a constitutional amendment, an incorporated territory of the United States could meet the definition of integration under the U.N. definition and have a full measure of self-government.

Ms. LUJAN. Mr. Chairman, I just wish that the provision of the measure would be more explicit, so that, you know, we can really understand what it means to be incorporated.

I can't see realistically the combination of incorporation and that of, you know, political empowerment. I don't know what that is. It is too broad for our purpose in terms of knowing exactly, because I have always understood that on this we are incorporated, we are in no position whatsoever to even think about statehood. And this political empowerment seems to broaden something, you know, that we don't really understand.

So I hope that if the bill is going to serve us, it should be explicit so that there is no ambiguity.

Mr. DE LUGO. Your statements are well taken, and that is the purpose of this hearing, to hear from witnesses such as yourself to point out those provisions that need to be clarified.

I want to thank you again for coming so far and being so helpful today. Thank you very much, Senator Lujan.

Ms. LUJAN. Thank you very much, Mr. Chairman.

Mr. DE LUGO. The Chair notes for the record that Senator Lujan was accompanied by an attorney well known to the committee, Mr. Barry Israel.

Mr. DE LUGO. The covenant that establishes the union between the Commonwealth of the Northern Marianas and the United States includes several provisions to address the problem that this bill is really intended to get at. Most notable perhaps is that some provisions are binding. The provisions are truly fundamental, such as the permanent grant of citizenship and the authority of the commonwealth Constitution, and the justification is peculiar to the circumstances of the Marianas, which had not been U.S. territory, but this still is of interest to all the other areas.

The covenant also set up a commission to recommend how and if all Federal laws should apply, as well as negotiations with a representative of the President on relationship issues. These provisions have not been so effective, however.

The covenant also provided for a representative in Washington, but one who does not sit in the House.

Mr. DE LUGO. Our witnesses from the Marianas includes Representative Juan Babauta, who recognizes that he would be able to do his job a lot more effectively if he had the limited voting powers of a delegate. And along with Mr. Babauta is Representative Pedro Reyes of the Commonwealth House.

Representative, welcome, and Representative Babauta, welcome to you, too. We are prepared to receive your testimony.

PANEL CONSISTING OF HON. JUAN N. BABAUTA, RESIDENT REPRESENTATIVE TO THE UNITED STATES, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS; AND HON. PEDRO P. REYES, REPRESENTATIVE, LEGISLATURE OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, ON BEHALF OF HON. DIEGO T. BENAVENTE, SPEAKER OF THE HOUSE OF REPRESENTATIVES, NINTH COMMONWEALTH LEGISLATURE

### STATEMENT OF HON. JUAN N. BABAUTA

Mr. BABAUTA. Thank you very much, Mr. Chairman.

I have earlier submitted my written testimony which I would like to ask for your permission to be included in the record.

Mr. DE LUGO. Without objection, your entire statement will be placed at this point in the record.

Mr. BABAUTA. Along with Congressman Pedro Reyes, I also wanted to recognize the distinguished member of the Supreme Court who is here with us, Associate Justice Harene Dergomus, who has a very keen interest in the political processes in the Northern Marianas.

Mr. Chairman, I would like to state at the outset that I join the previous witnesses in expressing our appreciation and gratitude for your long service in the Congress and how that service has benefited the people of the Northern Marianas. You have contributed to making the lives of the people of the Northern Marianas better.

We thank you for keeping an interest in the NMI over the years, in spite of your special obligation to the people of the Virgin Islands that you represent. And I say that in view of the fact that the Northern Marianas is greatly disenfranchised and obviously not represented in this body.

Mr. Chairman and members of the committee, in summarizing my testimony, I want to thank you again for the opportunity to testify before you. I have come before your committee to support H.R. 4442. I support it because it seeks to provide, and I quote, "full self-governance and political empowerment for the U.S. insular areas," and for that I commend Congressman Don Young for having sponsored the bill.

The people of the Northern Marianas would not be adverse to considering changes that would allow us to keep our covenant, yet add new powers to our citizenship.

I support H.R. 4442 for basically three reasons. First, the powers of citizenship we lack in the Northern Marianas are quite obvious. Needless to say, Mr. Chairman, one of the reasons is that we are disenfranchised from the Federal Government. We have no representation in Congress. We cannot vote in presidential elections. H.R. 4442 could help us rectify these deficiencies of citizenship that we are experiencing in the Northern Marianas.

Second, the bill would provide an avenue for U.S. citizens resident in other insular areas who have no mutual agreement with the United States regarding their status as we do in the Northern Marianas to gain such an agreement.

Finally, I support the bill because it represents one of the rare moments in this century of spontaneous interest by Congress in the issue of territorial relationships.



I have several questions, however, which I would like to have clarified which are unclear in our reading.

Question number one, while section 2 of the measure speaks of U.S. citizens in the insular areas achieving a full measure of self-government, section 3(a) suggests only that citizens may obtain greater powers of self-government.

In the same way, section 1(a)(2) finds that these citizens do not fully participate in the Federal decision-making process, while 3(a) only authorizes greater participation in the Federal system.

My question is, Would Congress be content with negotiations of Articles of Relations and Self-Government that did not reach the goals of full participation and full self-government? That is my first question.

My second question is, Would articles that do not provide full participation or full self-government satisfy Representative Young's goal of meeting the standards of the United Nations to eradicate colonialism?

And my third question is, While I understand the attraction of meeting the U.N. goal of ending colonialism by the close of the century, I wonder what will happen if a U.S. insular area, meeting the U.N. definition of a colony, does not exercise the option offered by H.R. 4442 within the time frame required by the bill.

Will we perpetuate the colonial status of that area by cutting off access to the process of a negotiation?

With that cut-off access to the process of negotiating shut off in this bill, would it not be preferable to ignore the United Nations' arbitrary goal line and instead leave open the opportunity for colonialization until all U.S. insular areas have achieved full self-government or full participation in the national government?

Fourth and finally, a purpose of Mr. Young's original bill, H.R. 3715, was to give the people of the U.S. territories constitutional rights and responsibilities equal to those of the citizens in the several States. The measure now under consideration does not explicitly say that U.S. citizens in the territories could seek constitutional rights equivalent to other U.S. citizens.

The question, again, is, Is it no longer the purpose of the bill to provide the opportunity for us in the territories to have equal rights as U.S. citizens? Is there some limit to the rights Congress will permit us to seek?

We looked, Mr. Chairman, to some kind of a goal, and incorporation and eventual statehood would seem to be the logical goal for such legislation.

With that, Mr. Chairman, I want to thank you, and I hope to hear from the committee for clarification on some of these areas of ambiguities on our part.

Mr. DE LUGO. Well, thank you very much, Representative Babauta, for raising those concerns which the committee will take under advisement and address either in the legislation itself or in the report if the bill moves forward.

[The prepared statement of Mr. Babauta follows:]



Testimony regarding H.R. 4442

HONORABLE JUAN N. BABAUTA  
Resident Representative to the United States,  
Commonwealth of the Northern Mariana Islands

Committee on Natural Resources  
Subcommittee on Insular and International Affairs

May 24, 1994

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to testify before you today.

I applaud the intent of H.R. 4442, which in the words of its author, the Honorable Don Young, seeks to provide "full self-governance and political empowerment in the United States insular areas."

Let me make clear at the outset that the people of the Northern Mariana Islands are satisfied with the fundamental provisions of the Covenant establishing our Commonwealth in political union with the United States. We voted overwhelmingly in favor of the Covenant and US citizenship in 1975. We stand by that decision.

While we are — in the main — satisfied with our political relationship with the United States and proud to be members of the American family, we would not be averse to considering changes that allowed us to keep our Covenant yet add new powers to our citizenship.

The powers of citizenship we lack in the Northern Marianas are obvious. We are disenfranchised from the Federal Government; we have no representation in Congress; we cannot vote in Presidential elections. H.R. 4442 could help rectify these deficiencies of citizenship experienced by all Americans who reside in the Northern Marianas. For that reason I support the bill.

H.R. 4442  
Juan N. Babauta  
Page 2

In addition, I can support H.R. 4442 because it provides an avenue for US citizens resident in the other insular areas — who have no mutual agreement with the United States regarding their status, as we do in the Northern Marianas — to gain such an agreement.

Finally, I support the bill because it represents one of the rare moments this century of spontaneous interest by Congress in the issue of territorial relationships. In the past — at least from the territorial perspective — it has been we who have had to take the initiative. Now it is Congress which may take the lead in empowering US citizens living outside the states but within the territorial boundaries of our nation.

At the same time I support the Congressional interest that would be demonstrated in passage of H.R. 4442, I have many questions about the intent and purpose of the bill.

For instance, while Section 2 of the measure speaks of US citizens in the insular areas achieving "a full measure of self-government," Section 3(a) suggests only that citizens may obtain "greater powers of self-government."

In the same way, Section 1(a)(2) finds that these citizens "do not fully participate in the Federal decisionmaking process," while Section 3(a) only authorizes "greater participation in the Federal system."

Would Congress be content with negotiations of Articles of Relations and Self-Government that did not reach the goals of full participation and full self-government?

Would Articles that do not provide full participation or full self-government satisfy Representative Young's goal of meeting the standards of the United Nations to eradicate colonialism?

H.R. 4442  
Juan N. Babauta  
Page 3

While I understand the attraction of meeting the UN goal of ending colonialism by the close of this century, I wonder what will happen if a US insular area, meeting the UN definition of a colony, does not exercise the option offered by H.R. 4442 within the timeframe required by the bill.

Will we perpetuate the colonial status of that area by cutting off access to the process of negotiation set out in this bill?

Would it not be preferable to ignore the United Nations' arbitrary goal line and instead leave open the opportunity for decolonization until all US insular areas have achieved full self-government or full participation in the national government?

Finally, a purpose of Mr. Young's original bill on this topic, H.R. 3715, was to give the people of US territories "constitutional rights and responsibilities equal to those of the citizens in the several States... ." The measure now under consideration does not explicitly say that US citizens in the territories could seek constitutional rights equivalent to other US citizens.

Is it no longer the purpose of the bill to provide the opportunity for us in the territories to have equal rights as US citizens?

Is there some limit to the rights Congress will permit us to seek?

Mr. Chairman, I am sure that you will consider these and many other questions in the course of your consideration of H.R. 4442.

Let me end by once again thanking you for this opportunity to testify. I encourage continued Congressional examination of the disenfranchised status of the four million US citizens living within our nation, but outside of states.

Thank you.

Mr. DE LUGO. Representative Reyes, do you have a statement?

**STATEMENT OF HON. PEDRO P. REYES**

Mr. REYES. Thank you, Mr. Chairman. I was hoping Congressman Underwood would be here so we can join his jet lag club.

Mr. Chairman and distinguished members of the subcommittee, thank you for the opportunity to appear before you today on behalf of the Honorable Diego T. Benavente, Speaker of the House of Representatives of the Ninth Commonwealth Legislature, who concurs with testimony of Resident Representative Juan N. Babauta regarding H.R. 4442.

Congress last acted to extend the full protection of the United States Constitution to a territory over a quarter of a century ago. It seems fitting that a native of that former territory, now the State of Alaska, has been the author of the bill before us today.

I want to thank Congressman Young for his interest. Rarely have Members of Congress stepped forward to address the issues of political empowerment and equality of rights for U.S. citizens living in the territories.

In that respect, Mr. Young's bill and today's hearing represent an historic event for the 4 million of us who have, in many ways, a second-class citizenship. We look forward to the opportunity offered by H.R. 4442 to extend, to those of us who choose, greater self-government or greater participation in the Federal system.

Democracy was a value brought into practice in the Northern Mariana Islands by the United States. Your stewardship during the naval administration and the United Nations' trust territory gave us the knowledge and the means to become democratically self-governing.

Our desire for self-determination came to fruition in 1976 with the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. In a plebiscite, over 78 percent of our voters approved the terms of the covenant. Ten years later, the covenant came into full effect, and our people became United States citizens.

Despite our basic satisfaction with the covenant, our rights as U.S. citizens are not fully realized under the present relationship. We have, for instance, no representation in Congress.

Last year, the Eighth Commonwealth Legislature approved a joint resolution requesting Congress to provide representation in the House of Representatives for the people of the Northern Mariana Islands. This year, the Ninth Commonwealth Legislature has approved a similar resolution, a copy of which I wish to submit for the record.

[The resolutions follow:]



RECEIVED  
MAY 13 1994  
JB

THE SENATE  
NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE  
FIRST SPECIAL SESSION, 1994

S.J. R. NO. 9-6

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A SENATE JOINT RESOLUTION

To request that the United States Congress confer non-voting status on the Resident Representative to the United States.

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Offered by Senators Paul A. Manglona; Thomas P. Villagomez; and Esteven M. King

DATE: March 17, 1994

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SENATE ACTION

ADOPTED: April 7, 1994

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HOUSE ACTION

ADOPTED: May 3, 1994

  
\_\_\_\_\_  
DAVID M. CING  
SENATE LEGISLATIVE SECRETARY

NINTH NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 1994

SENATE JOINT  
RES. NO. 9-6

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A SENATE JOINT RESOLUTION

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To request that the United States Congress confer non-voting status on the Resident Representative to the United States.

1 FINDING, that Section 901 of the Covenant (approved by U.S. Public Law  
2 94-241, 90 Stat. 263), provides for the appointment or election of a Resident  
3 Representative to the United States;

4 FINDING, that the current status of Commonwealth-federal relations, which  
5 is marred by miscommunication, misinterpretation, and misinformation is further  
6 exacerbated by the lack of a constant and vigilant Commonwealth voice and presence  
7 in the House of Representatives and its various committees and subcommittees;

8 TAKING NOTE that the Covenant negotiating history makes it clear that  
9 Section 901 does not preclude the Government of the Northern Marianas from  
10 requesting that the Resident Representative be given non-voting delegate status in the  
11 Congress of the United States;

12 FINDING FURTHER that Article V, Section 2, of the Commonwealth  
13 Constitution as amended by Constitutional Amendment 24, provides that the United  
14 States may confer the status of non-voting member delegate in the United States  
15 Congress on the Resident Representatives;

16 OBSERVING that P.L. 3-92 (Title 1, CMC, Division 4, §4101) provides that  
17 the Resident Representative shall function pursuant to Article V of the Constitution  
18 and the terms and conditions set forth in Division 4;

## SENATE JOINT RESOLUTION NO. 9-6

1 OBSERVING FURTHER that P.L. 3-92, §2(b)(Title 1, CMC, Division 4,  
2 §4202(b)) prescribes the following duties for the Resident Representative: "To  
3 represent the Commonwealth and the people of the Commonwealth on a full-time  
4 basis before the Congress of the United States, its committees and subcommittees....."

5 HOLDING IT TO BE TRUE that non-voting delegate status for the Resident  
6 Representative would neither diminish the full force and effect of the Covenant to  
7 Establish a Commonwealth of the Northern Mariana Islands in Political Union with  
8 the United States of America nor in any sense abrogate, qualify, or release rightful  
9 claims to local self-government contained in Article I, Section 103 of the Covenant; it  
10 is

11 RESOLVED by the Senate of the Ninth Northern Marianas Commonwealth  
12 Legislature, the House of Representatives concurring, that the United States of  
13 America:

14 (a) CONFER the status of non-voting delegate in the United States  
15 Congress on the Resident Representative;

16 (b) PROVIDE that the Resident Representative for the Northern  
17 Mariana Islands receive the same compensation, allowance, and benefits as a  
18 member of the United States House of Representatives, and be entitled to at  
19 least those same privileges and immunities granted to the non-voting Delegate  
20 from the Territory of Guam;

21 (c) WORK CLOSELY with the present Resident Representative in  
22 the drafting of federal legislation necessary to confer non-voting delegate  
23 status; and

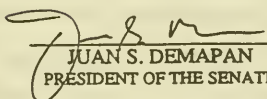
24 RESOLVING FURTHER that the President of the Senate and the Speaker of  
25 the House shall certify and the Senate Legislative Secretary and the House Clerk shall

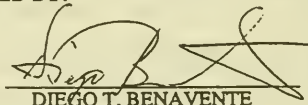
## SENATE JOINT RESOLUTION NO. 9-6

attest to the adoption of this Resolution and thereafter transmit certified copies to the Honorable Bill Clinton, President of the United States; the Honorable Froilan C. Tenorio, Governor of the Commonwealth of the Northern Mariana Islands; the Honorable Thomas Foley, Speaker of the U.S. House of Representatives; the Honorable Al Gore, Vice President of the United States of America and President of the U.S. Senate; the Honorable Bruce Babbitt, Secretary of the United States Department of the Interior; the Honorable J. Benett Johnston, member of the Senate, United States Congress; the Honorable George Miller, member of the House of Representatives, United States Congress; the Honorable Ron De Lugo, member of the House of Representatives, United States Congress; and the Honorable Leslie Turner, Assistant Secretary, Office of Territorial and International Affairs, U.S. Department of the Interior.

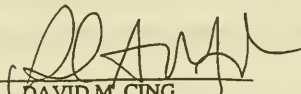
ADOPTED: May 3, 1994

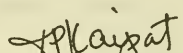
## CERTIFIED BY:

  
 JUAN S. DEMAPAN  
 PRESIDENT OF THE SENATE

  
 DIEGO T. BENAVENTE  
 SPEAKER  
 HOUSE OF REPRESENTATIVES

## ATTESTED TO BY:

  
 DAVID M. CING  
 SENATE LEGISLATIVE SECRETARY

  
 JOAN P. KAIPAT  
 ACTING HOUSE CLERK



ORIGINAL

## EIGHTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SECOND REGULAR SESSION, 1993

H. J. R. 8-5, C.S.1, H.D.1

*Delegate* 5-13-93  
27

## A HOUSE RESOLUTION

To request that the United States Congress establish a non-voting Delegate from the Northern Mariana Islands within the U.S. House of Representatives.

1 TAKING NOTE that the Covenant negotiating history makes it clear that  
2 Section 901 does not preclude the Government of the Northern Marianas from  
3 requesting that a Delegate from the Northern Mariana Islands be established in the  
4 Congress of the United States;

5 FINDING FURTHER that Article V, Section 2, of the Commonwealth  
6 Constitution, as amended by Constitutional Amendment 24, provides that the United  
7 States may confer the status of non-voting delegate or member in the United States  
8 Congress on the Resident Representative;

9 OBSERVING that P.L. 3-92, Section 1 (Title 1, CMC, Div. 4, Subsection 4101)  
10 provides that the Resident Representative shall function pursuant to Article V of the  
11 Constitution and the terms and conditions set forth in Division 4;

12 OBSERVING FURTHER that P.L. 3-92, Section 2(b) (Title 1, CMC, Div. 4,  
13 Subsection 4702(b)) prescribes the following duties for the Resident Representative:  
14 "To represent the Commonwealth and the people of the Commonwealth on a full-time  
15 basis before the Congress of the United States, its committees and subcommittees...To  
16 act as a liaison office in the District of Columbia for other official and unofficial  
17 matters pertaining to the public welfare of the Commonwealth...To actively and fully

1 advocate all programs and policies duly adopted by the Commonwealth" and "To  
2 coordinate all activities of the Commonwealth Government respecting federal grants  
3 and programs in the District of Columbia and appropriate regional and district offices  
4 in other states and territories";

5 REALIZING that many of the functions of the Resident Representative would  
6 still be needed if such additional representational status were placed upon that office  
7 and would unduly encumber the new Delegate;

8 HOLDING IT TO BE TRUE that providing a separate Delegate for the  
9 Northern Mariana Islands while maintaining an Office of the Resident Representative  
10 would neither diminish the full force and effect of the Covenant to Establish a  
11 Commonwealth of the Northern Mariana Islands in Political Union with the United  
12 States of America nor in any sense abrogate, qualify, or modify the right to local self-  
13 government contained in Article I, Section 103 of the Covenant; it is

14 RESOLVED by the House of Representatives of the Eighth Northern  
15 Marianas Commonwealth Legislature, the Senate concurring, that the United States  
16 of America is hereby requested to:

17 (1) ESTABLISH a seat of Delegate from the Northern Mariana Islands  
18 in the United States Congress;

19 (2) PROVIDE that the Delegate from the Northern Mariana Islands  
20 receive the same compensation, allowance, and benefits as a Member of the  
21 United States House of Representatives, and be entitled to at least those same

1 privileges and immunities granted to the non-voting delegate from the territory  
 2 of Guam and serve on the same term as the Resident Commissioner from the  
 3 Commonwealth of Puerto Rico;

4 (3) WORK CLOSELY with the Resident Representative in the drafting  
 5 of the federal legislation necessary to realize the Delegate from the Northern  
 6 Mariana Islands; and

7 RESOLVING FURTHER that the Speaker of the House and the President of  
 8 the Senate shall certify and the House Clerk and the Senate Legislative Secretary shall  
 9 attest to the adoption of this Resolution and thereafter transmit copies to: The  
 10 Honorable Bill Clinton, President of the United States; the Honorable Lorenzo I. De  
 11 Leon Guerrero, Governor of the Commonwealth of the Northern Mariana Islands; the  
 12 Honorable Thomas Foley, Speaker of the U.S. House of Representatives, the  
 13 Honorable Richard Gephardt, Majority Leader of the U.S. House of Representatives;  
 14 the Honorable Robert H. Michel, Minority Leader of the U.S. House of  
 15 Representatives; the Honorable George Miller, U.S. House of Representatives, the  
 16 Honorable Don Young, U.S. House of Representatives; the Honorable Ron De Lugo,  
 17 U.S. House of Representatives; the Honorable Elton Gallegly, U.S. House of  
 18 Representatives; the Honorable Eni F.J. Faleomavaega, U.S. House of  
 19 Representatives; the Honorable Eleanor Holmes Horton, U.S. House of  
 20 Representatives; the Honorable Carlos Romero-Barcelo, U.S. House of  
 21 Representatives; the Honorable Robert Underwood, U.S. House of Representatives;

1 the Honorable Al Gore, Vice President of the United States and President of the U.S.  
 2 Senate; the Honorable George Mitchell, Majority Leader of the U.S. Senate; the  
 3 Honorable Robert Dole, Minority Leader of the U.S. Senate, the Honorable J.  
 4 Bennett Johnston, U.S. Senate; the Honorable Daniel K. Akaka, U.S. Senate; the  
 5 Honorable Malcolm Wallop, U.S. Senate; and the Honorable Bruce Babbitt, Secretary  
 6 of the U.S. Department of Interior.

Date: 3/5/93

Introduced by: /s/ Diego T. Benavente  
 Rep. Diego T. Benavente

/s/ Heinz S. Hofschneider  
 Rep. Heinz S. Hofschneider

/s/ Pete P. Reyes  
 Rep. Pete P. Reyes

/s/ Crispin I. DL Guerrero  
 Rep. Crispin I. DL Guerrero

/s/ Jesus T. Attao  
 Rcp. Jesus T. Attao

/s/ Joaquin H. Borja  
 Rcp. Joaquin H. Borja

/s/ Stanley T. Torres  
 Rep. Stanley T. Torres

/s/ Herman T. Palacios  
 Rep. Herman T. Palacios

Reviewed for legal sufficiency:

/s/ John R. Varanese (3/20/92)





EIGHTH NORTHERN MARIANAS COMMONWEALTH  
LEGISLATURE

House of Representatives

Committee on Federal and Foreign Relations

STANDING COMMITTEE REPORT NO. 8-45  
March 11, 1993

HOUSE JOINT RESOLUTION NO. 8 - 5

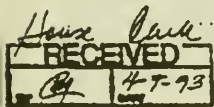
AND

SENATE JOINT RESOLUTION NO. 8-11

*"To request that the United States Congress confer non-voting delegate status on the Resident Representative to the United States"*

REPORT

The Committee on Federal and Foreign Relations, to which was referred H.J.R. 8-5: A House Joint Resolution to request that the United States Congress confer non-voting delegate status on the Resident Representative to the United States; and S.J.R. 8-11: A Senate Joint Resolution to request that the United States Congress confer non-voting delegate status on the Resident Representative to the United States, having considered the same, submits its Committee findings and recommendations in this Report on both resolutions. The Committee recommends that House Joint Resolution No. 8-5 be adopted in the form of Committee Substitute 1, and also recommends that the House reject Senate Joint Resolution 8-11. The Committee further recommends passage of House Legislative Initiative 8-2.



STANDING COMMITTEE REPORT NO. 8-45  
 House Joint Resolution No. 8-5, Committee Substitute 1  
 March 11, 1993  
 Page 2

## PURPOSE OF THE RESOLUTION

The purpose of House Joint Resolution No. 8-5, Committee Substitute 1, is to request that the United States Congress establish a non-voting Delegate from the Northern Mariana Islands within the U.S. House of Representatives.

## LEGISLATIVE HISTORY

House Joint Resolution 8-5 was introduced by Representative Diego T. Benavente and seven others on March 5, 1992, and was referred to the Committee on Federal and Foreign Relations.

Senate Joint Resolution 8-11 was introduced by Senator Paul A. Mangiona on December 29, 1992, and was passed on second and final reading and transmitted to the House on December 30, 1992. Senate Joint Resolution 8-11 was entertained by the House during its first day of Fourth Regular Session on January 11, 1993. After considerable deliberation, S.J.R. 8-11 was referred to the Committee on Federal and Foreign Relations. The Committee was ordered to issue its report on S.J.R. 8-11 within 30 days.

During the Seventh Legislature, an almost identical resolution of the same title, H.J.R. 7-9, was introduced on April 3, 1991 by Representative Diego T. Benavente. House Joint Resolution 7-9 was referred to the Committee on Federal and Foreign Relations. Pursuant to Miscellaneous Communication No. 7-187, H.J.R. 7-9 was recalled from the Committee on Federal and Foreign Relations and assigned to the Committee on Judiciary and Governmental Operations on July 19, 1991. The status table and archives indicate that H.J.R. 7-9 received no further action.

## COMMITTEE PROCEEDINGS

Rule VIII, Section 5 of the Official Rules of the House provide that the Committee on Federal and Foreign Relations "consider and report on all bills, resolutions and other matters referred to it by the House pertaining to the relationship of the people of the Commonwealth to the United States...". Senate Joint Resolution 8-11 was transmitted to the House without a committee report or other description of the Senate's proceedings. The House Committee had already completed considerable work on H.J.R. 8-5, and the substantive provisions of H.J.R. 8-5 and S.J.R. 8-11 are identical. The House Committee chose to deal with that action already taken on H.J.R. 8-5, during which it solicited comments from relative government agencies and interested members of the public, and held public hearings on Saipan, Tinian, and Rota. The Committee was fortunate to be able to meet with Ambassador Hayden Williams, the principal negotiator for the US in the Covenant negotiations, on February 3, 1993. The Committee feels the comments received on H.J.R. 8-5 can be reasonably applied directly to S.J.R. 8-11 as well.

STANDING COMMITTEE REPORT NO. 8-45  
 House Joint Resolution No. 8-5, Committee Substitute 1  
 March 11, 1993  
 Page 3

### COMMUNICATIONS

An overwhelming majority of the communications received by the Committee are in full support of the establishment of a Delegate in the U.S. Congress. The remarks of Edward Deleon Guerrero and David L. Price are attached as examples of the majority of comments received by the Committee. All written comments and other supplemental materials are on file with the Office of the House Clerk.

#### **L. Public Hearings on Saipan, September 3, 1992, on Tinian, September 16, 1992, and on Rota, September 17, 1992.**

The majority of those attending the public hearings in all senatorial districts supported House Joint Resolution 8-5, but some important questions and issues were also raised in support of gathering more information, which are listed below.

1. What are the disadvantages of proposed office?
2. Has CNMI ever been denied anything it has requested from the U.S. under the current arrangement?
3. To whom would the non-voting delegate be more committed, the CNMI or the U.S. Congress?
4. There needs to be greater public education with a balanced presentation.
5. Would a non-voting delegate mean inclusion in federal taxation by being a part of the U.S. Congress? Would the U.S. tax system be a deterrent to private sector development?
6. How would a non voting delegate affect other equally important issues which may be imposed without our approval such as the federal minimum wage, immigration and the possible application of other cumbersome or irrelevant federal laws?
7. Are we stronger under the current arrangement? If so, how so? We need a clear definition of our aspirations.
8. Would the proposed office resolve concerns under 902 Consultations? What is the intent of the Covenant on this matter.
9. Could fear of a nonvoting delegate be born from our frustrations with the Department of Interior and other agencies of the U.S. Federal Government?
10. Wouldn't the absence of a delegate to the U.S. Congress be the very reason for anybody and everybody whipping the CNMI at will because there's no one in Washington (U.S. Congress) watching and guarding over measures or issues affecting the CNMI?
11. There needs to be clarification of the confusion over the political definition of "sovereignty" in terms of independence, and that of "institutional sovereignty" which translates to subservieny.
12. Is it necessary that we have this office now? Or is there a need to seek an even closer relationship with the U.S?

STANDING COMMITTEE REPORT NO. 8-45  
 House Joint Resolution No. 8-5, Committee Substitute 1  
 March 11, 1993  
 Page 4

13. We are dealing with an issue that is necessarily historical and a quantum leap in our political development. The absolute intent of the public needs to be ascertained and adhered to.

## II. Comments of Resident Representative Juan N. Babauta

The concerns raised most often by the respondents regarded possible changes in the political status of the CNMI, the Covenant, or self government that may arise as a result of the CNMI receiving a Delegate to the U.S. Congress. In response to these concerns, the Committee offers the following summary of the document received on June 25, 1992 from Juan N. Babauta, Resident Representative to the United States, which provides definitive answers to these concerns.

### Representation Enhances Self-Government

The concern raised by some, that delegate status would compromise or even end the Covenant-guaranteed right of self-government is unwarranted.

Delegate status cannot amend or modify Article I of the Covenant, which guarantees self-government, or any other provision of the Covenant. It would not grant the U.S. Congress any more authority over the Commonwealth nor would it change the way in which federal legislation is made applicable to the Commonwealth.

This argument is supported by a memorandum prepared by the Legislative Attorney with the Congressional Research Service of the Library of Congress. The memorandum was in response to two questions posed by the House Committee on Interior and Insular Affairs. These questions and brief answers were:

Question: Would delegate status enhance the authority of the U.S. over the Commonwealth?

Answer: No.

Question: Would delegate status create an obstacle for the Commonwealth should it seek to change its political status?

Answer: No.

Delegate status would give the Commonwealth new authority and means to prevent the enactment of federal legislation inappropriate for the Commonwealth. Guam has modeled many provisions of the Guam Commonwealth Act on our Covenant but seeks to retain its delegate to Congress. Moreover, Puerto Rico, which seeks to protect its right of self-government not only wants to retain its representation in the U.S. House of Representatives; they also want a delegate in



the U.S. Senate. Both Guam and Puerto Rico recognize that representation in Congress enhances self government.

The only way the Covenant guarantee of self-government can be modified is by the mutual consent of the Commonwealth and the United States and that nothing in HJR 8-5 proposes such a change.

## II. A Seat in Congress: Political Empowerment

A delegate in the U.S. House of Representatives would help ensure that the Commonwealth received the maximum benefit possible from desirable federal laws while at the same time help deter inappropriate enactments. While delegates do not have a vote in final passage of bills, they do have a vote in committees where much of the work of Congress is done. U.S. Congressional committees investigate proposed laws, weigh their possible effects, and decide whether they warrant consideration by the full legislative body.

As a member of a committee, the Northern Marianas delegate would inform fellow committee members of the special needs of the Commonwealth and would have an opportunity to enlist the aid of other committee members to block or amend bills that are not in our interest. Finally, our delegate would have the opportunity to accrue seniority within the House, which would lead to leadership positions and the ability to direct the resources and attention of committees.

The delegate would also speak on the floor of the House of Representatives during its sessions, engage in debate and offer amendments to bills under consideration just as any other member of Congress.

Finally, and most importantly, our delegate could introduce legislation addressing particular needs and concerns of the Commonwealth.

## III. A Seat in Congress: Practical Benefits

First, the delegate would have increased standing and command greater respect from federal agencies than is presently accorded the Resident Representative because of his power to influence legislation.

The delegate would also have the many resources of Congress at his disposal to assist his constituents in the Commonwealth.

A delegate would also have office space in congressional office buildings and the opportunity for daily contact with the members of Congress through committee work, fact-finding trips and casual contact during business hours as well as social events.

Other practical benefits are the financial considerations of having a delegate. As a member of Congress, our delegate's salary, office space (both in Washington,

STANDING COMMITTEE REPORT NO. 8-46  
 House Joint Resolution No. 8-5, Committee Substitute 1  
 March 11, 1993  
 Page 6

D.C. and in the Commonwealth), postage, travel expenses and other benefits would be paid by the federal government. All of these factors will result in a substantial savings to the Commonwealth.

#### IV. Fulfilling the Covenant Vision

The idea of a delegate is nothing new. The Marianas Political Status Commission's position paper of May 10, 1973, points out that it was then the goal to ultimately have a voting representative in the U.S. House of Representatives. Because the commission was not able to get a firm commitment from Congress for a non-voting delegate, it settled for a Resident Representative. The reason for Congressional reluctance at that time, according to the commission was the small population of the Northern Marianas. However, since that time, American Samoa has been given a delegate's seat in Congress and presently the Commonwealth's population is twice that of what American Samoa's was at the time it received a delegate's seat.

Moreover, Constitutional Amendment No. 24 clearly expresses the wish of the people of the Commonwealth that our Resident Representative become a delegate in the U.S. House of Representatives.

Finally, the NMI Commission on Federal Laws unanimously recommended that Congress enact a law giving the Commonwealth a seat in Congress. Such a law, according to the commission, would be in accord with the Covenant and would provide more effective representation for the Commonwealth.

#### V. Confirming Our Relationship with the United States

Because the Northern Marianas desired a strong and permanent relationship with the United States, its people negotiated a unique Covenant with the United States. Congress, as the central institution of the U.S. helps determine the quality of the relationship with the U.S. How can we say that we have a strong and permanent relationship with the United States if we do not take part in the debates that determine the future of our nation? The best way to achieve this relationship is to have a delegate in Congress.

The Chairman of the House Committee on Interior and Insular Affairs, Rep. George Miller, in a letter to CNMI Senator Edward Maratita states that Rep. Miller would be happy to consider legislation to give the Commonwealth a seat in Congress.

The Resident Representative states that he has in the past and will continue to advocate for a delegate in Congress for the Commonwealth. He points out that it is understandable that some would attribute his advocacy to his own personal interests. He rejects this reason, however, and states that his support for a delegate in Congress is based on his belief that a delegate would be in the best interests of the people of the Commonwealth.

STANDING COMMITTEE REPORT NO. 8-48  
 House Joint Resolution No. 8-5, Committee Substitute 1  
 March 11, 1993  
 Page 7

Finally, the Resident Representative concludes his comments by assuring all concerned that when the voters finally do go the polls to elect their first delegate to Congress, he will not be a candidate.

### III. Views of former Ambassador F. Haydn Williams

In support of the resolution is Ambassador F. Haydn Williams, the principal negotiator for the United States in the Covenant negotiations. In his written remarks, and in a special meeting with the Committee, Ambassador Williams emphasized that the members of the Marianas Political Status Commission strongly favored a Congressional delegate. This is supported by Vicente T. Santos, vice chairman, and Vicente T. Camacho and Daniel T. Muna of the Marianas Political Status Commission, who were also present at the meeting.

Ambassador Williams stressed that having a delegate to Congress will have no bearing on the Covenant, and will raise the CNMI's stature in Washington. The Covenant stands secure, and will not change, since Section 105 of the Covenant sets forth the mutually binding language that the Covenant "cannot be altered in any fundamental respect unless both sides agree". (from the "Section by Section Analysis of the Covenant to Establish a Commonwealth of the Northern Mariana Islands" page 19)

Ambassador Williams also stressed the importance of interpreting "self-government" and "sovereignty" as it is intended within the Covenant. Section 101 of the Covenant states in no uncertain terms that the Commonwealth of the Northern Mariana Islands exists "in political union with and under the sovereignty of the United States of America". He also stated that the self government guaranteed to the people of the Northern Mariana Islands is not an independently sovereign self government, but a self government which exists within the framework of Federal supremacy and the applicable provisions of the U.S. Constitution. The Commonwealth's self government exists as a right of the people to govern themselves, similar to the way the several states govern themselves without Federal intervention, by establishing a constitution, executive and legislative branches and a judicial system.

Ambassador Williams takes the position that the language of the Covenant stands. A responsible legislator must understand the terms of the Covenant and act within its meaning. A person may not agree with its provisions, but distortion of the intent and meaning of the Covenant is irresponsible.

### COMMITTEE FINDINGS

The Committee finds that the people of the Northern Marianas have expressly voiced their desire for representation in Washington D.C. by the Resident Representative to the United States through the approval of their Political Status Commission of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America on February 15, 1975. The Political Status Commission acted as the duly appointed representative of the people of the Northern Mariana Islands. The

STANDING COMMITTEE REPORT NO. 8-45  
 House Joint Resolution No. 8-5, Committee Substitute 1  
 March 11, 1993  
 Page 8

Office of the Resident Representative is further defined in Article V of the Commonwealth Constitution and through Public Law 3-92 as codified at 1 CMC Division 4.

Constitutional Amendment No. 24 was adopted by the 2nd Constitutional Convention, 1985. Amendment 24 states that "in the event that the United States confers the status of member or non-voting delegate in the United States Congress on the resident representative and such status requires a different term, the term of office of the resident representative shall be that required by such status." The ratification of Amendment 24 by the people of the Commonwealth exemplified their recognition of a possible change in the representational status of the Commonwealth in Washington D.C.

The people of the Commonwealth have spoken through their submission of written and oral testimony to the Committee and through each of the public hearings held on Saipan, Tinian, and Rota. Although many important questions and issues were raised, the Committee feels that most of the questions are answered through the briefing document and memoranda submitted by the Resident Representative. The Committee further finds that the people of the Northern Marianas desire a representation in the United States Congress that is destined by the intent of the Covenant and the Constitution, and that a status of non-voting Delegate best meets that desire.

During its deliberations, the Committee examined the possibility of retaining the present office of Resident Representative and requesting the U.S. Congress to create a separate seat of Delegate from the Northern Mariana Islands. The Committee finds no statute in the Covenant, the Constitution, or Commonwealth Law which prohibits the U.S. Congress from taking such action, although existing language makes reference to conferring non-voting delegate status on the existing Resident Representative. The Committee therefore submits its substitute resolution in the form of House Resolution 8-5, C.S.1., which requests that the United States Congress establish a non-voting Delegate from the Northern Mariana Islands within the U.S. House of Representatives, with no mention of conferring such status on the present Resident Representative. The Committee provided minor technical amendments to the text for clarity and to conform with personnel changes in some of the political offices referenced. The Committee also substituted the term "Delegate" for "non-voting delegate", since the "non-voting" qualifier is unnecessary in the official title.

Since the adoption of House Resolution 8-5, C.S. 1 and subsequent action by the U.S. Congress would create an elected office of "Delegate", the office of Resident Representative would be more appropriately and efficiently accomplished if it were an appointed position within the Office of the Governor. The Committee therefore finds that approval of House Legislative Initiative 8-2 is in order to effectuate that change.

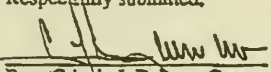


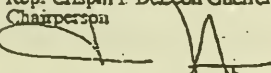
STANDING COMMITTEE REPORT NO. 8-45  
 House Joint Resolution No. 8-5, Committee Substitute 1  
 March 11, 1993  
 Page 9

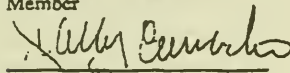
### RECOMMENDATION

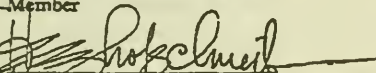
The Committee is in accord with the provisions of House Joint Resolution No. 8-5, as amended, and recommends that it be adopted by the House in the form of Committee Substitute 1. The Committee further recommends the rejection of Senate Joint Resolution 8-11 and the passage of House Legislative Initiative 8-2.

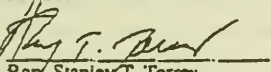
Respectfully submitted,

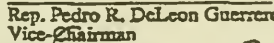
  
 Rep. Crispin I. DeLeon Guerrero  
 Chairperson

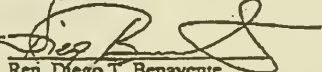
  
 Rep. Jesus T. Arao  
 Member

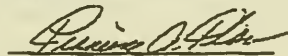
  
 Rep. Francisco DLG. Camacho  
 Member


  
 Rep. Heinz S. Hofschneider  
 Member

  
 Rep. Stanley T. Torres  
 Member

  
 Rep. Pedro R. DeLeon Guerrero  
 Vice-Chairman

  
 Rep. Diego T. Benavente  
 Member

  
 Rep. Francisco A. Flores  
 Member

  
 Rep. Ana S. Teregyo  
 Member

Mr. REYES. Thank you, Mr. Chairman, for the privilege to present testimony on H.R. 4442.

Mr. DE LUGO. Thank you very much.

[Prepared statement of Mr. Reyes follows:]

Testimony of Honorable Pedro P. Reyes  
on behalf of  
Honorable Diego T. Benavente  
Speaker of the House  
Legislature of the Commonwealth of the Northern Mariana Islands

H.R. 4442

Committee on Natural Resources  
Subcommittee on Insular and International Affairs

May 24, 1994

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear before you today on behalf of the Honorable Diego T. Benavente, Speaker of the House of Representatives of the Ninth Commonwealth Legislature, who concurs with testimony of Resident Representative Juan N. Babauta regarding H.R. 4442.

Congress last acted to extend the full protection of the United States Constitution to a territory over a quarter of a century ago. It seems fitting that a native son of that former territory, now the state of Alaska, has been the author of the bill before us today.

I want to thank Mr. Young for his interest. Rarely have Members of Congress stepped forward to address the issues of political empowerment and equality of rights for US citizens living in the territories.

In that respect, Mr. Young's bill and today's hearing represent an historic event for the four million of us, who have in many ways a second class citizenship. We look forward to the opportunity offered by H.R. 4442 to extend, to those of us who choose, greater self-government or greater participation in the Federal system.

Democracy was a value brought into practice in the Northern Mariana Islands by the United States. Your stewardship during the Naval Administration and the United Nations Trust Territory gave us the knowledge and means to become democratically self-governing.

Our desire for self-determination came to fruition in 1976 with the Covenant to Establish a Commonwealth of the Northern Mariana Islands in

Testimony of the Hon. Pedro P. Reyes  
H.R. 1422  
Page 2

Political Union with the United States of America. In a plebiscite over 78 percent of our voters approved the terms of the Covenant.

Ten years later, the Covenant came into full effect and our people became United States citizens.

Despite our basic satisfaction with the Covenant, our rights as US citizens are not fully realized under the present relationship. We have, for instance, no representation in Congress.

Last year the Eighth Commonwealth Legislature approved a joint resolution requesting Congress to provide representation in the House of Representatives for the people of the Northern Mariana Islands. This year the Ninth Commonwealth Legislature has approved a similar resolution, a copy of which I wish to submit for the record.

Were our people to have a voice in Congress we would gain the kind of political empowerment that is a goal of H.R. 4442.

Thank you, Mr. Chairman, for the privilege to present testimony on H.R. 4442.



Mr. DE LUGO. Let me address my first question to Representative Reyes.

You point out that the Ninth Commonwealth Legislature as well as the Eighth Legislature last year passed resolutions supporting representation in the Congress——

Mr. REYES. Yes.

Mr. DE LUGO [continuing]. For the people of the NMI. That was not the position of the NMI in the past. What is the reason for the change?

Mr. REYES. Well, the members of the House of Representatives of the Eighth Legislature have seen the interest of having to put a representative, a non-voting representative—I hate the term non-voting——

Mr. DE LUGO. Yes, so do I.

Mr. REYES [continuing]. To the U.S. Congress and then maybe one day will have a representative from the Northern Marianas in the panel with you addressing the issues of the Northern Marianas.

Mr. DE LUGO. We look forward to that day.

Juan, would you like to comment on the issue? You have been here, and you have seen the situation, and you live with it. How important is it for the people of the NMI to have a delegate in the House of Representatives?

Mr. BABAUTA. Well, Mr. Chairman, thank you for bringing this issue up.

Other than the very obvious reasons that we need a delegate here in the Congress, I feel very strongly that the people of the Northern Marianas ought to be represented here in the Congress where policies are being made affecting the people of the Northern Marianas by this Congress to which we have no representation, no one to protect and defend our interests. I think that is the fundamental reason why the NMI should have one.

Mr. DE LUGO. Representative Babauta, you recommend that we ignore the U.N. goal for ending colonialism by the end of this century and leave open the opportunity for decolonization until all U.S. insular areas have achieved full self-government or full participation in the national government. Now, given the history of lack of focus that generally is placed on the issue of territorial relationships which you point out exists, don't you believe that having a deadline provides a greater opportunity that there will be real movement on these proposals or for addressing questions of political status?

Mr. BABAUTA. I suggest that purely from the standpoint that the turn of the century is quite short and near. Perhaps if such a deadline was imposed by this legislation, as opposed to following the U.N. deadline, that that would move each of the entities to fully decide their own political future.

Mr. DE LUGO. All right.

Well, listen, I want to thank both of you for coming so far and participating in this today. I am sure I will see you at the conference this evening and tomorrow and the next few days. I want to thank you for the help you have been to this committee, and I note that this is being broadcast back to Guam and the NMI.

I see my friend John Anderson, whom I had the opportunity of guesting on his program when I was out in Guam and when I visited with you in Saipan. It was a wonderful visit, and please give my best to the Governor and to the members of the legislature and thank them for their hospitality.

Mr. BABAUTA. Thank you, Mr. Chairman.

I want to extend the Governor's best wishes as well to you and to the members of the committee.

Mr. DE LUGO. Thank you very much.

Mr. DE LUGO. Well, we have two witnesses or three, actually. We have a long-time friend of this committee, Dr. Miriam Ramirez de Ferrer, president of Puerto Ricans in Civic Action.

And accompanying Dr. Ramirez but not testifying as I understand it—Dr. Ramirez will give the testimony—is Dr. Thomas Ferrer, vice president of Puerto Ricans in Civic Action, and Mr. Ricardo Aponte, congressional liaison for Puerto Ricans in Civic Action.

It is a great pleasure to welcome you all here before this committee. And to thank you for your patience, but patience is something that you all have an abundance of, because you have been working on this issue for many, many years and have contributed tremendously to the movement that has occurred in the Nation's Capitol on behalf of Puerto Rico. So let me welcome you.

Let me, without objection, place your entire statement in the record at this point and invite you to proceed with your testimony.

**STATEMENT OF DR. MIRIAM RAMIREZ de FERRER, PRESIDENT, PUERTO RICANS IN CIVIC ACTION, ACCOMPANIED BY THOMAS FERRER, VICE PRESIDENT, PUERTO RICANS IN CIVIC ACTION, AND RICARDO APONTE, CONGRESSIONAL LIAISON, PUERTO RICANS IN CIVIC ACTION**

Dr. RAMIREZ DE FERRER. Thank you.

I want to thank you for inviting us here, and as the other witnesses have mentioned their gratitude, we want to do the same. I am not saying good-bye. It sounded like they are not going to be around here for a while, but we still have a good year before us, so I hope that we will be testifying before you again before the end of the year.

Mr. DE LUGO. Thank you very much.

Dr. RAMIREZ DE FERRER. So we don't want to say good-bye yet.

Mr. DE LUGO. Thank you. That is a good point. I will be here until January.

Dr. RAMIREZ DE FERRER. Well, I have long headed grassroots campaigns to secure political equality for the territory of Puerto Rico, and I emphasize territory, since some members of the commonwealth party find it difficult, either by ignorance or stubbornness, to accept the fact that Puerto Rico is a territory of the United States.

To help convince this generation of commonwealthers who were misled by their past leaders as to the present status of Puerto Rico, we list in our written statement various legal documents, legal cases and transcripts from past congressional hearings which I hope will help educate them once and for all. And I am including

for the record some of these transcripts and documents that I mention in my testimony.

[The information follows:]

HEARINGS ON THE ORGANIZATION OF A CONSTITUTIONAL  
GOVERNMENT IN PUERTO RICO

1950

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

U.S. HOUSE OF REPRESENTATIVES



# PUERTO RICO CONSTITUTION

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## HEARING

BEFORE THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

EIGHTY-FIRST CONGRESS

SECOND SESSION

STATEMENT OF THE GOVERNOR OF PUERTO RICO  
IN SUPPORT OF HIS RECOMMENDATION THAT  
CONGRESS PROVIDE FOR THE ORGANIZATION OF  
A CONSTITUTIONAL GOVERNMENT BY  
THE PEOPLE OF PUERTO RICO

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MARCH 12, 1950

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Printed for the use of the  
Committee on Interior and Insular Affairs



OFICINA DE SERVICIOS LEGISLATIVOS

EDIFICIO

CAPITOLIO

APARTADO 3086

SAN JUAN, PUERTO RICO

UNITED STATES

GOVERNMENT PRINTING OFFICE

WASHINGTON : 1950

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## CONTENTS

---

Statement of—	Page
Hon. Oscar L. Chapman, Secretary of the Interior.....	2
Hon. Luis Muñoz-Marin, Governor of Puerto Rico.....	3
Hon. A. Fernós-Isern, Resident Commissioner of Puerto Rico.....	11

# PUERTO RICO CONSTITUTION

MONDAY, MARCH 13, 1960

## UNITED STATES SENATE, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, Washington, D. C.

The committee met, pursuant to call, at 11 a. m., in room 224, Senate Office Building, Senator Joseph C. O'Mahoney of Wyoming (chairman) presiding.

Present: Senators Joseph C. O'Mahoney, Wyoming (chairman); Ernest W. McFarland, Arizona; Clinton P. Anderson, New Mexico; Glen H. Taylor, Idaho; Herbert H. Lehman, New York; Hugh Butler, Nebraska; Zales N. Ecton, Montana; and Arthur V. Watkins, Utah.

Also present: Oscar L. Chapman, Secretary of the Department of the Interior; Governor Luis Muñoz-Marín of Puerto Rico; and Resident Commissioner A. Fernós-Isern of Puerto Rico.

The CHAIRMAN. The Committee on Interior and Insular Affairs has the great honor and privilege this morning of having the opportunity to greet the Governor of Puerto Rico, Governor Muñoz-Marín, the first native of the island popularly elected its Governor. The Delegate from Puerto Rico, Dr. Fernós-Isern, who represents and has represented Puerto Rico in the Congress of the United States for 3 years, is also here. We are glad to welcome you both.

We also have the privilege of having the Secretary of the Interior, on whose broad shoulders falls the responsibility for those administrative details with respect to Puerto Rico that are not handled by local officials and by the Governor. It is well known, of course, that Puerto Rico came under the American flag after the Spanish-American War, by virtue of the Treaty of Paris which was signed on February 6, 1899.

Thereafter, in April of 1900, the Congress of the United States passed the Foraker Act providing for a civil government, and the island's first civil Governor under the Stars and Stripes was inducted into office on May 1, 1900.

It is worthy of note that the second paragraph of article 9 of the Treaty of Paris provides that the civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress. The enactment of the Foraker Act in the very next year after that treaty was signed was in itself an emphatic illustration of the desire of the Congress of the United States to provide civil government for the people of Puerto Rico.

The second organic act, the Jones Act, was enacted on March 2, 1917. It is the basic organic act of Puerto Rico at the present time. Section 2 of that act sets forth a complete bill of rights for the people of Puerto Rico, even establishing an 8-hour work day for Government laborers and mechanics and restricting child labor.



In 1946 President Truman appointed Jesús T. Piñero to be Governor of Puerto Rico. He was the first Puerto Rican to occupy the office of Governor of Puerto Rico.

The present Governor, who is with us today, obtained his office not by virtue of appointment by the President of the United States but by virtue of the free choice of the people of Puerto Rico. Under the Elective Governor Act which was passed in the Eightieth Congress, sponsored by Senator Butler, of Nebraska, the ranking Republican member of this committee, a popular election was held, and Muñoz-Marín was chosen. He is appearing before us today to discuss the problems of civil government and progress in Puerto Rico.

The Secretary of the Interior, who has in his various capacities in the Department of the Interior watched the development of self-government in the islands, is here with us, and I am sure the Secretary will like to say a word or two and introduce to us Dr. Fernós-Isern, who may in turn present the Governor.

#### STATEMENT OF HON. OSCAR L. CHAPMAN, SECRETARY OF THE INTERIOR

Secretary CHAPMAN: Thank you, Mr. Chairman. I may say that I think this is one of the finest opportunities and examples of not only good cooperation but wonderful help from the legislative to the administrative branch of our Government. We appreciate very much this opportunity to come in and talk with you this morning about a subject that is so vital and so important to the Puerto Rican people, and I think is important to the rest of the American people.

May I say, and be very frank with you, as to what the status of this discussion has been as of this moment. Governor Marín has discussed with me and others the question of the right of the Puerto Rican people to write a constitution for themselves. I think it is so important and so vital that I am delighted to have this opportunity for him to come before this committee and discuss it very frankly with you people, as he has with us.

We have not taken an administrative position on the matter. However, I think the subject which he has raised has decided merits. I think there is much merit in his suggestion, so much so that I would like to see this committee give it serious consideration.

Administratively, we have not adopted a definite position because we have not refined it down into definite details. There are many things that need to be discussed. It is an important step forward in our relation with Puerto Rico, and I believe it is a sound policy. The Governor and I appreciate this opportunity of discussing this question informally with you before any firm commitments are made. It is a great pleasure to have this opportunity to come before your committee to make this opening statement.

Also, we have with us the Delegate from Puerto Rico, although I do not believe they call him a Delegate. He is known as the Resident Commissioner of Puerto Rico. Dr. Fernós-Isern has been very helpful to the Department of the Interior and the Congress in working out Puerto Rican matters. I would like to ask Dr. Fernós-Isern to present the Governor at this time.

Mr. FERNÓS-ISERN. Thank you, Mr. Secretary.

Mr. Chairman, at this moment I have the great honor to present to you and this committee the Honorable Luis Muñoz-Marín, the Governor of Puerto Rico. He is the Governor of Puerto Rico because Congress passed a law in the way of an amendment to the Organic Act of 1917 making the office of Governor of Puerto Rico an elective office, and because the people of Puerto Rico in the election of 1948 overwhelmingly voted for him to occupy that position.

? → He is, besides our Governor, a great leader of the people. He was elected on a platform that calls for such a move as he will discuss today, and the people of Puerto Rico also voted overwhelmingly for that platform. I have the honor therefore at this moment to introduce to you the Honorable Luis Muñoz-Marín, Governor of Puerto Rico.

The CHAIRMAN. Governor, we are very happy to welcome you. I know I speak for every member of the Committee on Interior and Insular Affairs when I say we are delighted to learn of the progress that the people of Puerto Rico have been making under your leadership. We are very happy to cooperate with you in everything that may be in our power to advance the political and economic interests of Puerto Ricans and Puerto Rico. Governor, we will be very glad now to hear from you.

#### STATEMENT OF HON. LUIS MUÑOZ-MARÍN, GOVERNOR OF PUERTO RICO

Governor MUÑOZ MARÍN. Thank you very much, Senator. Gentlemen of the committee, Puerto Rico comes before you as a community of American citizens seeking the right to make their constitution under the Constitution of the United States, to which we all owe allegiance.

We are not requesting to be admitted as a federated State. Our request means that a community of citizens who are now in practice exercising self-government, shall have that right recognized in principle by governing themselves through a constitutional local structure of their own making.

Puerto Rico is one of the best working democracies in the world. Self-government has been progressively developing there in fact and in law. The fact has been usually ahead of the law, and thereby the United States as a whole has not always received the credit it rightly deserves, especially in the Latin-American area, for its basic democratic and equalitarian attitude toward civilized people of a different cultural background.

\* → The main result of our proposal, if adopted, is that the law will catch up with the fact and the United States will receive due credit. I may elaborate on this later if you so desire and I shall of course be glad to answer to the best of my ability whatever questions on this or other Puerto Rican matters you may desire information about.

Perhaps it is appropriate that on my first appearance before you gentlemen as elected Governor of Puerto Rico, I try to give a general picture of what our economic problems are and how we are working to bring them to solution.

Puerto Rico essentially has this problem. It has little land and it has many people, and every year it has more people in the same area of land. It has 3,400 square miles. The population now is close to

two and a quarter million, and Puerto Rico is an agricultural community, or mainly an agricultural community.

It has, by these figures I just gave, 650 inhabitants per square mile, which means that it is one of the most densely populated agricultural areas in the world. I have given this image to some gentlemen of this Congress, but I have never had the opportunity to do it before this committee, so I will give it to you now. I think perhaps one of the ways of realizing most clearly the magnitude of problems faced by this small island of Puerto Rico is as follows: If you can imagine that the whole population of the world of India, China, Russia, Europe, Africa, Indonesia, and all the islands of all the seas, if all the population of the world should move to the continental United States, then the continental United States would have about the same number of inhabitants per square mile that Puerto Rico has now.

The CHAIRMAN. But not quite.

Governor MUÑOZ-MARTÍN. A little bit over or a little bit under but more or less 650 per square mile, but the continental United States would still be a highly industrialized area. They have great industrial plants, many branches of industrial production, mines, petroleum, large navigable inland waters, large possibilities for water-power development in forming electric power, which Puerto Rico either has not or has very little of, so in that imaginary case the United States would not have it easier than Puerto Rico has, concerning this problem.

Puerto Rico now has all those inhabitants per square mile with much industry, without many natural resources, without any mines, without any petroleum, without any large water power. Another thing that the United States would have in the circumstances I have described would be a Constitution, which Puerto Rico now does not have. Therefore, this all ties in with our proposal which is now before you.

Now what are we doing to tackle these problems? We are having what in our campaign, the 1948 election we called, as a campaign slogan, an up-hill fight. The people of Puerto Rico are such good participators in democracy that they vote overwhelmingly even when those they vote for are not offering them candy, but only a difficult thing to do, a difficult task to accomplish.

We did not hide from them in the election that the struggle for the economic development of Puerto Rico was difficult and hard, as our gentlemen can gage from the figures I have just given. Our fight is mainly to increase production in Puerto Rico. We have to increase production to absorb the unemployment that we still have, and also we have to increase it further still to keep up with the population increase in Puerto Rico.

Puerto Rico is somewhere between an underdeveloped and a medium developed area. It has developed to the point where its death rate is practically as low as the general death rate of the United States as a whole, but still its birth rate is very high, a tropical, agricultural birth rate. The rate of increase is one of the largest, if not the largest in the whole world. We have to increase production to keep up with that increase in population, and also we have to increase production to continue improving the standard of living of the people of Puerto Rico.

It has improved, it is continuing to improve, but for a large majority it is still very far from the standard of living which citizens of the United States should have.

Finally we have to increase production still further so as to become at some date—I do not know how late or how early that date will be, but I am confident it will arrive—really and fundamentally self-sustaining.

Now production is increasing faster than population, but not as fast as is needed to accomplish these four ends that have been briefly presented before you gentlemen. The standard of living is higher than in any other community of Latin-American origin except three in the whole hemisphere, but it is still far from that of any American State. We are developing and stimulating industrial growth in Puerto Rico. It is basically the only way out of the great economic difficulties with which our people are gallantly struggling.

We are developing in many ways by all kinds of sympathetic consideration to industrial enterprises, by all kinds of understanding attitudes toward them, all kinds of help and cooperation, and by a tax-exemption law through which new industries will be free of taxation until 1959.

Tax exemption

The tax exemption will end simultaneously in the same year for all industries, to prevent variance in competitive position after that. It ends really in 1962. In 1959 it goes up 25 percent; in 1960, 50 percent; and in 1961, 75 percent; and becomes 100 percent in 1962.

Now that is functioning reasonably well. The industrial plant has increased, but it is far, very far from being what it should be if we are going to accomplish the four objectives I mentioned. We are not satisfied that that scheme is the best possible one to industrialize Puerto Rico. It is working reasonably well, but we are not convinced that it is the best one.

I want to say, and I want to make this very clear, that we do not grant by action of our executive council, which is the final authority that grants or withholds tax exemption to these specified new industries, we do not grant tax exemption to any industry that is supposed to close a factory in any State or Territory of the Union in order to open it in Puerto Rico.

We do not want to stimulate transfers from one part of the American economy to other parts of the American economy. We want to contribute our part to the growth of the whole American economy, of which we are a part.

For that reason it is that we in the executive council, by resolution, do not grant any tax exemption to any industry if it is known that they are going to close a factory in any State or other Territory of the Union in order to open in Puerto Rico. As a matter of fact, it has not happened or come up.

However, as I said in my last message to the legislature, which Senator Butler was so kind to insert in the Record a few days ago, the Congressional Record, we are seeking a more stable and more normal means of stimulating our necessary industrial growth, and the remedy of Puerto Rico is, by my direction, studying the manner of developing a general tax system, without exemptions for anyone, that shall be attractive to the kind of industrial investment we want and need in Puerto Rico.

I do not believe that that can be ready at any time within this year, so as long as no law is passed by the legislature—and I have not even proposed one yet; when I do propose one, the legislature may pass it or may not pass it, but as long as no law changing the present



one is passed by the legislature—the present tax-exemption law will of course continue to operate.

Not only will all contracts be kept with all those that are already under the tax exemption, but the right to continue to apply for it will remain on the books until the Legislature of Puerto Rico decides to do otherwise.

However, I do hope that soon a way may be found that can be recommended to the legislature—"soon" does not mean this year I believe—of establishing a general tax system without exemptions which will be attractive to industrial development in Puerto Rico. This is hard to do, and the reason it is hard to do is because Puerto Rico needs to get a lot of money from taxes in order to give and develop those services to the people, without which industrial development is not conceivable.

You cannot conceive of a very high-grade industrial development without widespread educational opportunities, or without a good state of health of the people, or without plenty of pure drinking water as a contributing factor to the health of the people, or without a land-development of adequate housing opportunities for the people.

We have of course aid from the United States Congress on the which we very deeply and sincerely appreciate, but beyond that aid we have to tax ourselves rather highly in order to be able to provide those services that our people not only deserve as a question of human rights, but that we have to put there so that industrial investments can work, because we cannot industrialize a community with a large rate of illiteracy or with a large rate of disease and so forth and so on.

That is why I say we find that it is not an easy problem to lower the general tax rate to induce investment in the industries that we need, and at the same time have the Government of Puerto Rico get enough money to give the services that that new industry needs to have as part of the community in which it develops.

The CHAIRMAN. Governor, all the revenues collected in the Territory go to the Puerto Rican treasury, do they not?

Governor MUÑOZ-MARÍN. That is right, that is correct.

The CHAIRMAN. I do not think this fact is generally understood Puerto Rico in that regard is in a better position than any of the States of the Union theoretically. Of course, the total revenue may not be as large as you would like. Do you happen to recall at the moment what revenues are collected in Puerto Rico and turned over by the Federal Government to the treasury of the island?

Governor MUÑOZ-MARÍN. Yes; all taxes collected in Puerto Rico go into the Puerto Rican treasury. Since the economic relationship with Puerto Rico was established by law of Congress in 1900, now after Puerto Rico came under the jurisdiction of the United States as a result of the Spanish-American War and the Treaty of Paris since that time the Congress, after studying the whole problem as it was in Puerto Rico, established certain principles on the tax and problem which have been in operation since then, as a result of which Puerto Rico has had much more opportunity to deal with its problems than it would have had if it did not have those principles in operation, as a result of which also the economy of Puerto Rico has developed in a manner that is based and predicated on those principles, and as I say, much progress has been accomplished with that attitude of Congress which has been established and has taken root since 1900.

What I am saying is that in spite of that, and in spite of our taxing ourselves rather heavily, we still are far from having all the facilities we need.

The CHAIRMAN. The point that I was trying to make, Governor, is this. I would like to have it clearly on the record that the relationship between the Federal Government of the United States and Puerto Rico, since the island came under the jurisdiction of this Government, has never been one of colonial exploitation of the people. Is it not a fact that it has always been one of seeking to create more opportunities for the people to support themselves?

Governor MUÑOZ-MARÍN. That is correct, and the Federal Government has at times been more helpful than at other times, but at all times its attitude has been one of helpfulness toward Puerto Rico.

The CHAIRMAN. One of the primary things for the members of this committee to learn from you with respect to the proposal which you are making is in what manner would the new constitution of which you speak broaden the opportunity for the people of Puerto Rico not only to govern themselves but to support themselves.

Governor MUÑOZ-MARÍN. May I get to that in the course of my remarks, Senator?

The CHAIRMAN. Yes, indeed.

Governor MUÑOZ-MARÍN. I would say that not only has the attitude of the Federal Government been helpful, but that by all modern definitions of what constitutes colonialism, it has not been a colonial policy in Puerto Rico. The most clear and significant fact on that is that one of the characteristics of colonialism is to prevent colonies from establishing and developing industry and reserving to the country that owns them the right to have the industry and get the raw materials from the colonies. That is so far from being true in Puerto Rico that we are now developing industrialization.

We are now developing industrial production in Puerto Rico not only without any opposition from the Federal Government, but actually with much sympathy, understanding and aid from the Government of the United States, so what you state, Senator, is true, for still other reasons besides the ones you stated.

Now I would say that although it is difficult to find our way in this new way of stimulating industry and in general for the solution of all our problems, I think that we shall find a way because there certainly is a will on the part of all the Puerto Rican people, not only of their leaders, to find a way, and this is perhaps the greatest progress among other progresses that I can report to you gentlemen generally as of recent years, and that is a progress in hopefulness and in initiative on the part of the people of Puerto Rico.

We no longer waste much time in lamenting a tough fate, which we undoubtedly have had economically speaking. We work hard at trying to improve that fate and at being victorious over its difficulties.

Now returning to the proposal for a constitution for Puerto Rico, it is proper for me to say that both the Resident Commissioner, Fernós-Isern, and myself campaigned for this proposal, and received the endorsement of the overwhelming majority of the Puerto Rican people, that in their name the right should be requested for them to make their own local constitution.

Authorizing this right is in practice, I must say, gentlemen, a much shorter step than it was to authorize the people of Puerto Rico to

elect their own executive. The election of an executive branch of the Government had never happened before in the world so far as I know excepting in independent republics and in Federal States, so this was a great step in practice. The granting of the right to the Puerto Rican people to make their own local constitution under the Constitution of the United States is in practice a much shorter step.

Moreover, I believe that the drawing up of their own constitution is a much more deeply important step morally and spiritually for the people of Puerto Rico, even than was the election of their own Governor. The authorization to make their own constitution will be of deeper value still than the elective governorship. It will complete the position of dignity of the Puerto Rican people as a democratic people.

It will free both Puerto Ricans and the people of the rest of the States of the malicious accusation of colonialism so constantly wielded against them by Communist groups in Latin America. It will put them politically and morally on a level with their great democratic practice and their great effort to continue solving the difficult economic problems of Puerto Rico.

It is for these reasons, gentlemen, that in the name of the people of Puerto Rico, Dr. Farnós-Isern and I express to you our desire that the law be put in accord with the fact of self-government, which we already enjoy, and they be granted the right to make their own constitution not as a State but as a community of American citizens, not in the sense of congressional representation but in the sense of full and complete local self-government under the Constitution of the United States, and I hereby, gentlemen, make that request to you who have always been so fair and just and generous to my people of Puerto Rico, and I make that request in their name.

The CHAIRMAN. Governor, when you say that you want a right for the people of Puerto Rico to draft their own constitution, under the Constitution of the United States, I take it you mean that you want a constitution for Puerto Rico based upon the pattern of the Constitution of the United States under which the people themselves and not through assumed leaders, are the governing authority.

Governor MUÑOZ-MARÍN. That is right.

The CHAIRMAN. You want free elections. You do not want elections such as those we read about now in some areas of the world where there is only one set of candidates, and those who vote can only vote one way. You want a free democratic election as I understand it.

Governor MUÑOZ-MARÍN. We have them.

The CHAIRMAN. You have them now and you want to continue them.

Governor MUÑOZ-MARÍN. I was elected freely, and the members of the Legislature of Puerto Rico were elected freely to conduct the government under a local constitutional structure that the people of Puerto Rico have not made. We are requesting that they be given a chance to make this constitutional structure now. That completes the pattern of self-government.

May I give you the idea of what I have in mind. Authorize by act of Congress the people of Puerto Rico to, in their own manner—I would recommend making the act as little paternalistic as possible—to call a constitutional convention, to get this convention to draft and

Muñoz: P.R.  
has  
self government.

Some conditions, however, are always put in in the case of Federal States. The constitution should be republican in form. It should contain a bill of rights. It should not be contrary in any way to the Constitution of the United States, some such thing.

★ → The CHAIRMAN. The essential thing, Governor, about a bill of rights is that it recognizes the superiority of the people to the government.

Governor MUÑOZ-MARÍN. That is right.

The CHAIRMAN. A bill of rights makes the government the agent of the people.

Governor MUÑOZ-MARÍN. That is right.

The CHAIRMAN. And not the people the agent of the government.

Governor MUÑOZ-MARÍN. That is right.

★ The CHAIRMAN. It is precisely that objective toward which you are working, is it not?

Governor MUÑOZ-MARÍN. That is right. Well, we have a bill of rights.

The CHAIRMAN. I know you do.

Governor MUÑOZ-MARÍN. But we would like to make it ourselves.

The CHAIRMAN. You want to retain it?

Governor MUÑOZ-MARÍN. That is right, by our own making. Then the people of Puerto Rico would get together, the legislature would provide for the election of the constitutional convention, they would draft a constitution under these conditions, republican in form, and so forth and so on.

I may say that that would be the kind of a constitution the people of Puerto Rico would see to it was drafted even if it did not have conditions, but I realize that basic conditions must be part of the conditions of an act authorizing them, so that they can never be amended out in the future.

Then that constitution would be submitted to the President and to the Congress, and if found to be, as it should be, democratic in form, and so forth and so on, would then be approved by the Congress. If Congress finds anything wrong with it, then they do not have to approve it when it gets up here. That is a similar procedure as that followed with the Federal States.

★ We would like it to be as similar as possible with Federal States, to maintain this on the high level of collective dignity for the people of Puerto Rico which they deserve. However, the result is not creating a Federal state. It would have no voting representation in Congress.

It is a local result, but locally it is a complete one, and if Congress approves the constitution, then that becomes the constitution of Puerto Rico. Then those parts of the present organic act which now make up what functions as a constitution of Puerto Rico, would thereby cease to be in use any more.

Muñoz  
relationship  
unaltered by  
Constitution

★ Still many parts of the organic act would continue to function. Those parts which are not properly speaking a constitution but rather a statute of relationship, judicial, fiscal, and economic between the island of Puerto Rico and the rest of the States would continue to function.

The CHAIRMAN. I think you make your meaning very clear.

Senator Butler, who was, in the Eightieth Congress, chairman of



of Puerto Rico. I wonder, Senator, if you have any questions that you would like to ask.

Senator BUTLER. Well, I would be glad to say this, Mr. Chairman. I would be very glad to say that I am in hearty accord in principle with the statement that has been made by the distinguished Governor of Puerto Rico. I know that the experiment which we tried out, giving the Puerto Ricans the opportunity to elect their own Governor, has been more than successful, and I am of the opinion that the further request made by the Governor today would be another step in the right direction.

Sen. Butler  
(Republican) ← The CHAIRMAN. I think, Senator Butler, you have every reason to feel very proud of the fact that you were the sponsor of the law which made it possible for the people of Puerto Rico to elect their own Governor, and particularly to elect Governor Muñoz-Marín.

Senator BUTLER. I am glad, of course, Mr. Chairman, to have had a small part in it, but I want to say very frankly that there was a lot of help from many other sources for the proposal, and I think other people had the same idea that I did, perhaps, in hoping that we might ultimately work out the solution that would be general in application not only for the people of Puerto Rico, and I am delighted with the progress that has been made in that direction so far.

The CHAIRMAN. Senator Lehman of New York State has a deep interest in Puerto Rico not only as an island, but also by reason of the fact that there are many of the natives of Puerto Rico living in the great State of New York.

Senator Lehman, perhaps you have a question or two you might want to address to Governor Muñoz-Marín.

Senator LEHMAN. Well, I have had the opportunity of discussing this proposal with the Governor on a previous occasion. I merely wish to say that I have observed the people, our fellow Americans from Puerto Rico, very carefully over a number of years, and I know that both those who have come to the mainland from Puerto Rico and those who remain on the island of Puerto Rico are completely democratic in their point of view.

I have listened to the Governor's proposal with interest, and I believe that it has great merit. I believe that the people of Puerto Rico have shown their democratic leanings, determination, through the manner in which they have carried out the privilege that was given to them a year or two ago to elect their own Governor.

In principle I completely favor the right that is proposed to be given to the people of Puerto Rico to draft a constitution at a constitutional convention, a constitution based on the principles of democracy which they and their fellow Americans on the mainland have held for so long a time, and I am sure that if that privilege is given to them, they will make full use of the closer ties that will bind them to their fellow citizens on the mainland.

The CHAIRMAN. Governor Muñoz-Marín, the committee is very much indebted to you for your visit with us this morning and the presentation of this matter. The people of the United States throughout their existence have been dedicated to the expansion of the powers of self-government.

I think it is the universal opinion of our people that the larger the degree of actual self-government, the greater the degree of progress. Your proposal will be taken under consideration by this committee.

Sen Lehman, NY  
Constitution is  
a privilege to  
make full use of  
ties to the  
mainland

★

and it will be given full and complete consideration. We thank you, sir, for having been with us this morning.

May I also, Commissioner Fernós-Isern, to address you by your proper title, thank you for having come here. Is there anything more that you, Mr. Commissioner, would like to add?

**STATEMENT OF HON. A. FERNÓS-ISERN, RESIDENT COMMISSIONER OF PUERTO RICO**

Mr. FERNÓS-ISERN. There is a short statement, Mr. Chairman, which I would like to read for the record. It deals mostly with the mechanics of the proposition as it might be here enacted into law.

Fernós-Isern  
(for Puerto Rico)  
Present Organic  
Act continue  
with Constitution,  
in exercise of  
Federal authority  
over P.R.

Mr. Chairman, members of the committee, our proposition for the organization of a constitutional government by the people of Puerto Rico would continue the present Organic Act of Puerto Rico insofar as it actually is a Federal Organic Act for Puerto Rico: insofar as it establishes and defines Puerto Rico's relationship to the United States and its Federal Government. It would be continued, therefore, in all such sections where provision is made for the application of Federal laws to the island, and for the operation of Federal agencies therein. In sum, in what pertains to the exercise of Federal authority over Puerto Rico. The rest of the sections of the organic act are provisions that create a local government and its structure—what might be termed an insular organic act. These are to be superseded by a constitution of the people's adoption.

The act authorizing the adoption of the local constitution, upon its adoption by Congress, would be offered for acceptance by the people of Puerto Rico. Upon the people having accepted it, there could be no question as to the fact that the principle of Government by consent had been fully and expressly recognized.

The continuation of the present organic act, insofar as it is a Federal organic act, or Federal relations act, and the adoption within such framework of a constitution for a local government, gives us a formula of democracy in federation which the people of Puerto Rico unmistakably desire. This was unquestionably demonstrated in the election November 1948, in Puerto Rico. It was on a platform calling for such formula of democracy within the Union that both Governor Muñoz-Marin and myself were elected by nearly 65 percent of the vote cast in the whole island, and with nearly 80 percent of all registered voters taking part in the elections.

A situation of self-government would thus be perfected in Puerto Rico. We practice it almost fully already, but we have not shaped the legal instrument through which we practice it. We adopt our local laws, but we haven't adopted our local law of laws—our constitution. This is what we want to do now. In so doing, we would not become a State of the Union. We would not have participation in national elections, nor participation on an equal basis in the process of national legislation. But we would attain a dignified station within the Union, within the terms of the applicable provisions of the Constitution of the United States. This status conforms to the circumstances of Puerto Rico.

Fernós-Isern  
Station within  
Union + terms of  
applicable provisions  
of the Constitution  
of the U.S.

This formula of federation is a natural result of the development of such political concepts as were first applied to the government of Puerto Rico since 1900. In the first organic act adopted by Congress

for Puerto Rico in the course of that year, the seeds of the concepts we are now sponsoring were sown. The evolution of political thinking has followed a most logical path. It has been creative thinking. We all have contributed to it. We are now reaping the fruits of the seeds that were sown 50 years ago. We offer them now as a formula of democracy within the Union, adjusted to the circumstances of Puerto Rico; a formula which consecrates a principle and continues a reality already in existence.

I do hope it may receive your most kind consideration.

The CHAIRMAN. Thank you very much, Mr. Commissioner.

Governor Muñoz-Marín, I note that you are accompanied here by members of your staff, executive officials of Puerto Rico. In order that the record may be clear, I wonder if you would be good enough to introduce each one of them to the members of the committee so that their names and their duties may appear upon the record of this morning's session.

Governor MUÑOZ-MARÍN. I shall be very glad to do so, Senator. Mr. Mariano Villaronga, commissioner of education of Puerto Rico; Mr. Roberto de Jesus, director of the budget of Puerto Rico; Col. Alberto Arrilaga, military aide; Dr. Juan A. Pons, commissioner of health of Puerto Rico; Dr. Rafael Pico, chairman of planning board who now spends some of his time as president of the Planning Board of Puerto Rico and some of his time being delegate of the United States at the Inter-American Social and Economic Conference; Mr. José Trias Monge, formerly assistant attorney general. Now he is acting as my legal counsel in Washington.

The CHAIRMAN. Governor, we are very happy indeed to welcome you and all of your staff, and I think that the committee feels as I do now when I say we give you just applause. [Applause.]

Governor MUÑOZ-MARÍN. May I say thanks to you, Senator, and to all the members of the committee for this hearing, and may I take the opportunity to invite all of the members present and those not present today to visit us in Puerto Rico at their convenience. You have all of you a standing invitation to be my personal guests at the executive mansion at Fortaleza, and the guests of the people of Puerto Rico in the whole island.

The CHAIRMAN. May I say, Governor, that you have always been a most gracious host. We who have gone to Puerto Rico have appreciated the hospitality of the people, of yourself, and of your predecessors at Fortaleza, and I can say that I have never enjoyed a visit to any part of the world to a greater degree than I have the visits to Puerto Rico, and I thank you very much indeed.

Governor MUÑOZ-MARÍN. Thank you, Senator. It gets better every year.

(Whereupon, at 11:50 a. m., the hearing was adjourned.)

PUERTO RICO—CONSTITUTIONAL GOVERNMENT

PUERTO RICO—CONSTITUTIONAL GOVERNMENT—  
ORGANIZATION

*For text of Act see p. 323*

Senate Report No. 1779, June 6, 1950 [To accompany S. 3336]

House Report No. 2275, June 19, 1950 [To accompany S. 3336]

The House Report repeats in substance the Senate Report.

*House Report No. 2275*

THE Committee on Public Lands to whom was referred the bill (S. 3336) to provide for the organization of a constitutional government by the people of Puerto Rico, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

This bill would authorize the people of Puerto Rico to adopt their own constitution and to organize a local government which, under the terms of S. 3336, would be required to be republican in form and contain the fundamental civil guarantees of a bill of rights. Specific provision is made for an island-wide referendum in which the people of Puerto Rico will be given the opportunity to accept or reject this legislative proposal.

A provision also is made in the bill for the submission to, and ratification by Congress, of any proposed constitution before it becomes effective, and the bill specifically provides that it shall not become effective until it is approved by a majority of the voters participating in an island-wide referendum.

In 1917 the Congress established the framework of Puerto Rico's government by enacting the Organic Act of Puerto Rico. This act created a popularly elected legislature with broad powers in local legislative matters, and provides for an executive branch and judicial branch of the government. The people of Puerto Rico were authorized to elect a Resident Commissioner, accredited to the Department of State and to be recognized as such Commissioner by all departments of the United States Government. Besides, he has been extended the privileges of membership in the House of Representatives, with power to serve on committees, to introduce legislation, and to be heard on the floor of the House, but with no power to vote. Under the organic act of 1917 the people of Puerto Rico were made citizens of the United States, and their civil rights guaranteed by a bill of rights analogous to the Bill of Rights of the Constitution.

The most significant action taken by the Congress, since the enactment of the organic act, has been granting Puerto Rico greater self-government with the 1947, when it permitted the people of Puerto Rico



## LEGISLATIVE HISTORY

to elect their governor and permitted the governor to select the members of his cabinet.

By permitting the people of Puerto Rico to formulate and by their own initiative and choice adopt a constitution, S. 3336 would further implement the self-government principle established by the Congress as the cornerstone and fundamental policy governing the relationship of the United States toward territories over which it has jurisdiction.

It would, moreover, fulfill in a most exemplary fashion our obligations with respect to Puerto Rico under chapter XI of the charter of the United Nations, relating to the administration of non-self-governing territories—to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement.

The people of Puerto Rico and their representatives have expressed their overwhelming support in favor of legislation which would permit them to adopt a constitution. In the recent election in Puerto Rico the Popular Democratic Party which specifically campaigned in favor of such legislation received approximately 62 percent of the Puerto Rican votes cast in the election, thereby decisively defeating the opposition, including the party running on a platform for the independence of Puerto Rico, and the coalition running on a platform for statehood for Puerto Rico. Further resolutions were recently passed unanimously in both the senate and house of representatives of the insular legislature in favor of legislation which would permit the adoption of a constitution by the people of Puerto Rico, with only one abstaining vote in each of the houses. A similar bill was introduced in the House by the Resident Commissioner of Puerto Rico about which this committee received eloquent testimony from Gov. Luis Muñoz-Marín, Resident Commissioner Antonio Fernós-Isern, and other witnesses. This legislation constitutes a reflection of the very strong sentiment which exists in Puerto Rico for a greater measure of local autonomy which this bill represents. The Department of the Interior and the Department of State have urged in strong language immediate passage of this measure.

Local organizations, the Chamber of Commerce of Puerto Rico, the justices of the Supreme Court of Puerto Rico, all the mayors of the 77 municipalities in the island except one, have supported the bill.

It is important that the nature and general scope of S. 3336 be made absolutely clear. The bill under consideration would not change Puerto Rico's fundamental political, social, and economic relationship to the United States. Those sections of the Organic Act of Puerto Rico pertaining to the political, social, and economic relationship of the United States and Puerto Rico concerning such matters as the applicability of United States laws, customs, internal revenue, Federal judicial jurisdiction in Puerto Rico, Puerto Rican representation by a Resident Commissioner, etc., would remain in force and effect, and upon enactment of S. 3336 would be referred to as the Puerto Rican Federal Relations

## PUERTO RICO—CONSTITUTIONAL GOVERNMENT

Act. The sections of the organic act which section 5 of the bill would repeal are the provisions of the act concerned primarily with the organization of the local executive, legislative, and judicial branches of the government of Puerto Rico and other matters of purely local concern.

One further point of clarification: This bill does not commit the Congress, either expressly or by implication, to the enactment of statehood legislation for Puerto Rico in the future. Nor will it in any way preclude a future determination by the Congress of Puerto Rico's ultimate political status.

The United States has never made any promise to the people of Puerto Rico, or to Spain from whom Puerto Rico was acquired, that Puerto Rico would eventually be admitted into the Union. In fact, our commitment with respect to Puerto Rico and to the other areas ceded by Spain under the Treaty of Paris differed considerably from commitments made with respect to previously acquired areas, and lands constituted as Territories. Our practice in this regard is reviewed briefly to show the difference.

During 1781 to 1802, the Original Thirteen States ceded to the Federal Government certain lands reaching out as far west as the Mississippi, and lying north and south of the Ohio River. These lands were divided into two large areas, known as the Northwest Territory and the Southwest Territory, respectively. The Northwest Ordinance enacted by the Congress for the government of the Northwest Territory and under which the Territory was incorporated into the Union, set the pattern for organic legislation for all of the Territories established on the mainland which now comprise the United States. The Northwest Ordinance granted the people of the Northwest Territory certain basic personal and political rights; it established a form of government for the Territory; it outlined the Territory's future political status. It did the latter by expressly providing that when the population in any of the districts into which the Territory was divided should have reached a certain figure, the district was to be admitted into the Union as a State. This promise of future statehood upon the fulfillment of certain conditions was included in the organic legislation for other contiguous territories of the United States, such as the Southwest Territory, the Territory of Orleans which was set up in the land acquired by the Louisiana Purchase, and so on. To these areas the Constitution and laws of the United States were extended, thus incorporating them into the Union.

In due course the promise of statehood was fulfilled for each of these areas. Alaska and Hawaii differ from these early Territories only in the fact that they are noncontiguous to the mainland. The organic legislation provided for them is very similar to the organic legislation of the mainland Territories. The Constitution and laws of the United States were extended to Alaska and Hawaii and, therefore, just as in the case of the other incorporated Territories which became States, Alaska and Hawaii have a claim to statehood. Admission of Alaska and Hawaii,

## LEGISLATIVE HISTORY

now incorporated Territories, to statehood, would complete the pattern set by the Northwest Ordinance and carried over by the organic legislation of the Territories on the mainland, that a Territory once incorporated is destined for ultimate statehood. Alaska and Hawaii are our only remaining incorporated Territories. We have given neither an expressed nor an implied pledge of incorporation or of statehood to the people of any of the other non-self-governing Territories under our jurisdiction. Puerto Rico has not been so incorporated. Puerto Rico is "unincorporated Territory." The Constitution has never been extended to Puerto Rico. Puerto Rico does not, therefore, have the claim of statehood which the mainland Territories in Alaska and Hawaii have. 74

In conclusion, it is the feeling of this committee that the people of Puerto Rico have demonstrated by their intelligent administration of local governmental activities, by their extensive use of the franchise, and by their high degree of political consciousness, that they are eminently qualified to assume greater responsibilities of local self-government.

The extent and nature of the political, economic, and social development of Puerto Rico warrants the advancement in self-government which S. 3335 would make possible. Such action by the Congress would be a clear expression of our esteem for the people of Puerto Rico. It would be a fundamental contribution to the art and practice of the government and administration of Territories under the sovereignty of the United States. Finally, enactment of S. 3335 would stand forth as a concrete demonstration to the nations of Latin America and the world, and especially the people of Puerto Rico, that the United States translates its principles of democracy and self-determination into action.

The Committee on Public Lands unanimously recommends the enactment of S. 3335.

The favorable reports of the Department of the Interior, the Department of State, and the Bureau of the Budget, addressed to the Senate Committee on Interior and Insular Affairs, are as follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington 25, D. C., May 12, 1950.

Hon. JEROME C. O'MAHONEY,

*Chairman, Committee on Interior and Insular Affairs,  
United States Senate, Washington, D. C.*

MR. DEAN BRADY O'MAHONEY: This is in reply to your request for the views of this Department on S. 3335, a bill to provide for the organization of a constitutional government by the people of Puerto Rico.

I strongly urge the enactment of S. 3335, with the amendment suggested.

It is important at the outset to avoid any misunderstanding as to the nature and general scope of the proposed legislation. Let me say that enactment of S. 3335 will in no way commit the Congress to the enactment of statehood legislation for Puerto Rico in the future. Nor will it in any way preclude a future determination by the Congress of Puerto Rico's ultimate political status. The bill merely authorizes the people of Puerto Rico to adopt their own constitution and to organize a local govern-

# PUERTO RICO—CONSTITUTIONAL GOVERNMENT

ment which, under the terms of S. 3336, would be required to be republican in form and contain the fundamental civil guarantees of a bill of rights.

The framework of Puerto Rico's government has been prescribed by the Congress, by the enactment in 1917 of the Organic Act of Puerto Rico. This organic act established a popularly elected legislature with broad powers in local legislative matters, and provided for an executive branch and a judicial branch of the government. It authorized the people of Puerto Rico to elect a representative to the Congress, accredited to the House of Representatives, with power to serve on committees, to introduce legislation, and to be heard on the floor of the House, but with no power to vote. Under the organic act the people of Puerto Rico were made citizens of the United States, and had their civil rights guaranteed by a section of the act which closely paralleled the language of the Bill of Rights of the Constitution.

Since the enactment of the organic act, the most notable step taken by the Congress toward granting Puerto Rico an increased measure of local self-government was in 1947, when it permitted the people of Puerto Rico to elect their Governor and permitted the Governor to select the members of his cabinet, except for the auditor of Puerto Rico, who remains a Presidential appointee.

S. 3336 would be a further implementation of the self-government principle adopted by the Congress. It would permit the substitution, by action of the people of Puerto Rico, of a constitution of their own choosing for the present "constitution", the organic act, which was handed to them by the Congress.

The bill under consideration would not change Puerto Rico's political, social, and economic relationship to the United States. Those sections of the Organic Act of Puerto Rico pertaining to the political, social, and economic relationship of the United States and Puerto Rico concerning such matters as the applicability of United States laws, customs, internal revenue, Federal judicial jurisdiction in Puerto Rico, Puerto Rican representation in the Congress by a Resident Commissioner, etc., would remain in force and effect, and upon enactment of S. 3336 would be referred to as the Puerto Rican Federal Relations Act. The sections of the organic act which section 5 of the bill would repeal are the provisions of the act concerned primarily with the organization of the local executive, legislative, and judicial branches of the government of Puerto Rico and other matters of purely local concern. These matters would be provided for in any constitution adopted and any local government organized by the people of Puerto Rico.

For your convenience, I enclose a brief analysis indicating the general nature of the sections of the organic act which would, and those which would not, be repealed by S. 3336. It is suggested that the bill be amended by striking out the number "55" appearing on page 2, line 15. No repeal of section 55 of the Organic Act of Puerto Rico would be required since that section has already been repealed by section 39 of title 28 of the United States Code (62 Stat. 992).

The eloquent testimony of Gov. Luis Muñoz-Marín before the Senate Interior and Insular Affairs Committee in behalf of this legislation is a reflection of the very strong sentiment which exists in Puerto Rico for a greater measure of local autonomy. The people of Puerto Rico have demonstrated by their high degree of political consciousness, by their extensive use of the franchise, and by their successful and intelligent administration of local governmental activities, that they are eminently qualified to assume greater responsibility of self-government.

The time has come to permit the people of Puerto Rico to adopt their own constitution. Enactment of S. 3336 would be a reaffirmation by the Congress of the self-government principle which has been the cornerstone of United States policy toward its Territories. Such action by the Congress would be a clear expression of our esteem for the people of Puerto Rico. It would also be a concrete demonstration to the nations of the world, and especially the people of Puerto Rico, at a time when territorial administra-



## LEGISLATIVE HISTORY

tion is a matter of constant discussion in the United Nations, that the United States translates its principles of democracy and self-determination into action.

The Bureau of the Budget has advised that enactment of this legislation would be fully in accord with the program of the President.

Sincerely yours,

OSCAR L. CHAPMAN,  
*Secretary of the Interior.*

GENERAL NATURE OF SECTIONS OR PARTS OF SECTIONS OF THE  
ORGANIC ACT WHICH WOULD REMAIN IN FORCE AND EFFECT  
AND UPON ENACTMENT OF S. 3336 WOULD BE KNOWN AS THE  
PUERTO RICAN FEDERAL RELATIONS ACT

Section 1: Provides that the organic act shall apply to the island of Puerto Rico and adjacent islands.

Section 2: Tomy clause.

Section 3: Prohibits export duties; permits imposition by the insular government of internal revenue and other taxes; permits the issuance of bonds, but limits indebtedness; provides for the exemption of bonds issued pursuant to this section from taxation.

Section 4: a) b) c): Contains United States citizenship provisions for Puerto Ricans.

Section 5: Provides that the expenses of the insular government shall, except for United States public works, be paid out of the insular treasury.

Section 7: Provides for the transfer of property to Puerto Rico ceded by Spain to the United States; also provides for the mutual transfer of property between the United States and Puerto Rico.

Section 8: Contains provisions relating to the jurisdiction of the United States and Puerto Rico with respect to harbor areas, navigable streams, bodies of water, and submerged lands in and around Puerto Rico.

Section 9: Provides that United States laws, except the internal revenue laws, are applicable to Puerto Rico, except where locally inapplicable; also contains proviso returning the internal revenue taxes to Puerto Rico.

Section 10: Provides that all judicial process in Puerto Rico shall run in the name of the United States or the people of Puerto Rico; also provides for an oath of allegiance.

Section 11: Provides that reports by the Governor and insular departments are to be made to the Federal agency designated by the President to have administrative jurisdiction over Puerto Rico.

Section 36: Contains provisions relating to the election, eligibility, salary, allowances, etc., of the Resident Commissioner.

Section 37: part): Defines the extent of the legislative authority of the Legislature of Puerto Rico.

Section 38: part): Declares the Interstate Commerce Act and certain other Federal acts inapplicable in Puerto Rico.

Section 41: Contains provisions relating to the United States District Court for the District of Puerto Rico and the judge and officials of that court.

Section 42: Provides that the laws of the United States relating to appeals, certiorari, removal of causes, and other matters or proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the United States District Court for the District of Puerto Rico and the courts of Puerto Rico. It also provides that all pleadings and proceedings in the United States District Court for the District of Puerto Rico shall be conducted in the English language.

Section 44: Prescribes qualifications for jurors selected to serve in the United States District Court for the District of Puerto Rico.

Section 45: Provides for disposal of fees, fines, etc., collected in the United States District Court for the District of Puerto Rico.

Section 49: Provisions relating to writs of habeas corpus to be issued by the Supreme Court of Puerto Rico, and the United States District Court

## PUERTO RICO—CONSTITUTIONAL GOVERNMENT

for the District of Puerto Rico; and writs of mandamus to be issued by the United States District Court for the District of Puerto Rico; declares that suits restraining assessment or collection of taxes imposed by the laws of Puerto Rico are outside the jurisdiction of the United States District Court for the District of Puerto Rico.

Section 54: Provides for the acknowledgment of deeds and other instruments affecting land situated in the District of Columbia or any other Territory or possession of the United States.

Section 58: Provides for the continuation of United States laws applicable to Puerto Rico which are not inconsistent with the organic act; also repeals all United States laws which are applicable to Puerto Rico but inconsistent with the organic act.

### GENERAL NATURE OF SECTIONS OR PARTS OF SECTIONS OF THE ORGANIC ACT TO BE REPEALED BY S. 2036

Section 3: Contains a bill of rights and other provisions of a protective nature.

Section 4: Provides that the capital of Puerto Rico shall be at the city of San Juan.

### PROVISIONS RELATING TO EXECUTIVE BRANCH OF GOVERNMENT OF PUERTO RICO

Section 12: Contains provisions relating to the election, tenure, qualifications, and powers of the Governor of Puerto Rico.

Section 12a: Prescribes procedure for impeachment of the Governor of Puerto Rico.

Section 13: Creates the executive departments of the government of Puerto Rico.

Section 14: Prescribes the duties and authority of the attorney general.

Section 15: Prescribes the duties and authority of the treasurer of Puerto Rico.

Section 16: Prescribes the duties and authority of the commissioner of interior.

Section 17: Prescribes the duties and authority of the commissioner of education.

Section 18: Prescribes the duties and authority of the commissioner of agriculture and commerce.

Section 18a: Prescribes the duties and authority of the commissioner of labor.

Section 19: Prescribes the duties and authority of the commissioner of health.

Section 20: Prescribes the duties and authority of the auditor.

Section 21: Provides for appeal to the Governor from decisions of the auditor.

Section 22: Provides for appointment of the executive secretary to the Governor, and prescribes his duties and authority.

Section 23: Provides for the transmission to the Congress of laws enacted by the Legislature of Puerto Rico.

Section 24: Provides for succession to the office of Governor in the event of a vacancy in that office.

### PROVISIONS RELATING TO THE LEGISLATIVE BRANCH

Section 25: Vests local legislative powers in a bicameral legislature consisting of a senate and house of representatives designated as "The Legislature of Puerto Rico."

Section 26: Contains provisions relating to the election, number, qualifications, and term of office of members of the senate of Puerto Rico, and prescribes the powers of the senate.

Section 27: Contains provisions relating to the election, number, qualifications, and term of office of members of the house of representatives of Puerto Rico, and prescribes the powers of the house of representatives.

## LEGISLATIVE HISTORY

Section 28: Provides for the division of Puerto Rico into representative and senatorial districts.

Section 29: Provides for quadrennial elections.

Section 30: Provides a 4-year term of office for senators and representatives, and prescribes the method of filling vacancies.

Section 31: Provides a per diem and mileage allowance for senators and representatives.

Section 32: Provides that the senate and house of representatives, respectively, shall be the sole judges of the elections, returns, and qualifications of their members.

Section 33: Provides for regular and special sessions of the Legislature of Puerto Rico.

Section 34: Contains provisions relating to the legislative procedures to be followed in the Legislature of Puerto Rico, also contains provisions with respect to the approval or veto of legislation by the Governor of Puerto Rico, and approval or disapproval by the President of the United States of enactments of the Legislature of Puerto Rico.

Section 35: Prescribes the qualifications of voters.

Section 37: The portion of this section to be repealed prohibits the creation of additional executive departments by the Legislature of Puerto Rico, but permits the consolidation or abolition of departments with the consent of the President of the United States.

Section 38: Contains provisions relating to the organization and functions of the Public Service Commission of Puerto Rico.

Section 39: Contains provisions relating to the issuance of franchises and privileges, and other miscellaneous matters.

Section 40: Contains provisions relating to local courts of Puerto Rico.

Section 49: Provides for the appointment by the Governor of Puerto Rico of certain court officers not subject to Presidential appointment.

Section 49 (b): Contains provisions relating to the position of coordinator of Federal agencies in Puerto Rico.

Section 50: Contains provisions relating to the payment of salaries of officials of Puerto Rico.

Section 51: Contains provisions relating to the payment of salaries of municipal officials of Puerto Rico.

Section 52: Contains provisions relating to the continuation of incumbents of offices at the time the Organic Act of 1917 was passed.

Section 53: Permits the Governor of Puerto Rico to reorganize bureaus within various departments.

Section 56: Contains provisions relating to the continuance of the legislative and executive functions of the government of Puerto Rico until the Organic Act of 1917 becomes effective.

Section 57: Provides for the continuance of the laws and ordinances of Puerto Rico in force and effect at the time the organic act became effective until such time as they are altered, amended, or repealed pursuant to the legislative authority conferred upon the Legislature of Puerto Rico by the organic act.

DEPARTMENT OF STATE,  
Washington, April 24, 1950.

Hon. JOSEPH C. O'MANONEY,

Chairman, Committee on Interior and Insular Affairs,  
United States Senate.

MR. DEAN SENATOR O'MANONEY: This is in further reply to your letter of April 1, 1950, which was acknowledged April 4, 1950, transmitting for the comment of the Department of State, a copy of S. 2006, to provide for the organization of a constitutional government by the people of Puerto Rico.

The Department of State believes it to be of the greatest importance that the Puerto Rican people be authorized to frame their own constitution.

# PUERTO RICO—CONSTITUTIONAL GOVERNMENT

tion as provided for in S. 3336, in order that formal consent of the Puerto Ricans may be given to their present relationship to the United States.

It is believed that, with their own constitution, the high degree of internal self-government which the Puerto Ricans today enjoy in their voluntary association with the United States, will assume for them an added significance. Moreover, such action by our Government would be in keeping with the democratic principles of the United States and with our obligations under the Charter of the United Nations to take due account of the political aspirations of the people in our Territories and to develop self-government in them.

In view of the importance of "colonialism" and "imperialism" in anti-American propaganda, the Department of State feels that S. 3336 would have great value as a symbol of the basic freedom enjoyed by Puerto Rico, within the larger framework of the United States of America.

The Department has been informed by the Bureau of the Budget that bills providing for the drawing up and adoption of a constitution by the people of Puerto Rico (S. 3336 and H. R. 7674) would be fully in accord with the program of the President.

Sincerely yours,

JACK K. MCFALL  
Assistant Secretary  
(For the Secretary of State).

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EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington 25, D. C., April 18, 1950.

Hon. JOSEPH C. O'MAHONEY,  
United States Senate, Washington, D. C.

MY DEAR SENATOR O'MAHONEY: This is in reply to your request of April 1, 1950, for a report on S. 3336, a bill to provide for the organization of a constitutional government for the people of Puerto Rico.

This bill, and the almost identical House bill, H. R. 7674, would permit people of Puerto Rico to draw up their own constitution within the existing relationship of Puerto Rico to the Federal Government. The people of Puerto Rico have exercised progressively greater powers of self-government, and enactment of legislation permitting them to adopt their own constitution would mark another significant step in the political progress of this island as a part of America. In view of these objectives, enactment of S. 3336 would be fully in accord with the program of the President.

Sincerely yours,

F. J. LAWTON, Director.



Dr. RAMIREZ DE FERRER. For the same purpose, we are also submitting for the record the legislative history of the congressional bill that provided for the enactment of the Puerto Rico constitutional government bill, which they claim created a different status.

[The information follows:]

## TERRITORIES

This Title includes the territory of the United States not contained within the boundaries of any of the several states; powers of the national government over such territory; application of laws of the United States thereto; establishment and organization of territorial governments, appointment of governors and other officers thereof, and rights, powers, proceedings, and liabilities of such governments, their officers and agents; and actions by or against territories.

Matters not in this Title, treated elsewhere in this work, see Descriptive-Word Index

*Analysis*

- § 1. Definitions, nature, and distinctions—p 611
- 2. Existence and status before adoption of constitution—p 611
- 3. Acquisition of territory by United States; property rights of inhabitants—p 611
- 4. What law in force—p 612
- 5. — Laws of former sovereignty—p 612
- 6. — Application of constitution and laws of United States—p 613
- 7. — Application of laws or constitution of state—p 615
- 8. Territorial extent and boundaries—p 615
- 9. Political status and relations and classification—p 615
- 10. — "State" compared and distinguished—p 616
- 11. — Organized and unorganized territories—p 617
- 12. — Incorporated and unincorporated territories—p 618
- 13. — Foreign territory or country—p 618
- 14. Government and officers in general—p 619
- 15. — Power of congress—p 619
- 16. — Provisional government—p 620
- 17. — Nature, construction, and operation of organic act—p 621
- 18. — Powers and status of territorial government—p 622
- 19. — Form and nature of territorial government; division of powers—p 624
- 20. United States congress—p 625
- 21. — Annulment of, and other powers as to, acts of territorial legislature—p 626
- 22. Territorial legislature—p 628
- 23. — Delegation of power and encroachment on other departments—p 630
- 24. — Occupation of legislative field by congress—p 630
- 25. — Validity and construction of territorial statutes—p 631
- 26. — Membership, sessions, employees, and compensation—p 633
- 27. — Particular subjects of legislation—p 634
- 28. Executive—p 636
- 29. — Governor—p 636
- 30. — Other officers, employees, and agents—p 637
- 31. Judiciary—p 639
- 32. Property—p 639
- 33. Contracts in general—p 639
- 34. Liabilities in general—p 641
- 35. Fiscal management and public debt—p 642
- 36. Rights and remedies of taxpayers—p 643
- 37. Claims against territories—p 643
- 38. Actions by and against territories—p 644

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See also descriptive word index in the back of this Volume

## § 1. Definitions, Nature, and Distinctions

The word "territory," when used to designate a political organization has a distinctive, fixed, and legal meaning under the political institutions of the United States, and does not necessarily include all the territorial possessions of the United States, but may include only the portions thereof which are organized and exercise governmental functions under act of congress.

While the term "territory" is often loosely used,<sup>1</sup> and has even been construed to include municipal subdivisions of a territory,<sup>2</sup> and "territories of the" United States is sometimes used to refer to the entire domain over which the United States exercises dominion,<sup>3</sup> the word "territory," when used to designate a political organization, has a distinctive, fixed, and legal meaning under the political institutions of the United States,<sup>4</sup> and the term "territory" or "territories" does not necessarily include all the territorial possessions of the United States, but may include only a portion or the portions thereof which are organized and exercise governmental functions under act of congress.<sup>5</sup> The term "territories" has been defined to be political subdivisions of the outlying dominion of the United States,<sup>6</sup> and in this sense the term "territory" is not a description of a definite area of land but of a political unit governing and being governed as such.<sup>7</sup> The question whether a particular subdivision or entity is a territory is not determined by the particular form of government with which it is, more or less temporarily, invested.<sup>8</sup>

"Territories" or "territory" as including "state" or "states." While the term "territories of the" United States may, under certain circumstances, include the states of the Union,<sup>9</sup> as used in the federal Constitution and in ordinary acts of congress

"territory" does not include a foreign state.<sup>10</sup>

As used in this title, the term "territories" generally refers to the political entities or political subdivisions created by congress, and not within the boundaries of any of the several states.

## § 2. Existence and Status before Adoption of Constitution

A distinction between the states which were members of the Confederation and the territories or lands belonging to the federal Union was recognized even before the adoption of the federal Constitution.

Even before the adoption of the federal Constitution and during the existence of the Confederation a distinction was recognized between the states which were members of the Confederation and the territories or land belonging to the federal Union or United States<sup>11</sup> and the continental congress by the Ordinance of 1787 provided for the government of the Northwest Territory.<sup>12</sup>

## § 3. Acquisition of Territory by United States; Property Rights of Inhabitants

Territory organized for governmental purposes has been acquired in various ways by the United States, including cession and war; and usually the property rights of inhabitants of territory so acquired have remained unaffected.

The United States has the power to acquire territory as a necessary and proper adjunct of sovereignty and of the power to declare and carry on war and to make treaties,<sup>13</sup> and, accordingly, territory which has been organized for governmental purposes by congress has been acquired in various ways, including acquisition by cession<sup>14</sup> and by the prose-

1. Puerto Rico.—Peck Steamship Co. v. New York etc. Steamship Co., 2 Puerto Rico Fed. 109, 128.
2. Hawaii.—Honolulu Rapid Transit etc. Co. v. Territory, 21 Hawaii 138.
3. Cal.—Ex parte Heiklich Terul, 200 P. 284, 988, 187 Cal. 20, 17 A.L.R. 680.
4. U.S.—Ex parte Morgan, D.C. Ark. 20 F. 298.
5. U.S.—Ex parte Morgan, supra, 62 C.J. p. 762 note 6.
6. U.S.—First Nat. Bank v. Yankton County, Dak., 101 U.S. 123, 133, 18 L.Ed. 1046.
7. Utah—People v. Daniels, 22 P. 169, 8 Utah 358, 232, 5 L.R.A. 444, 49 C.J. p. 783 note 7.
8. U.S.—Interstate Commerce Commission v. U. S. ex rel. Huldolt, 88 Co. App.D.C., 33 S.Ct. 656, 568, 224 U.S. 474, 482, 36 L.Ed. 948.
9. U.S.—Blinn v. U. S., Alaska, 34 S.Ct. 316, 134 U.S. 496, 491, 48 L.Ed. 1087.
10. C.J. p. 762 note 2.
11. Form of government of territories in general see infra § 18.
12. Cal.—Ex parte Heiklich Terul, 200 P. 284, 988, 187 Cal. 20, 17 A.L.R. 680.
13. U.S.—Eldredge v. Martinez, N.Y., 23 S.Ct. 518, 134 U.S. 578, 591, 46 L.Ed. 697.
14. U.S.—Clinton v. Englebrecht, Utah, 13 Wall. 434, 20 L.Ed. 669, 62 C.J. p. 783 note 12.
15. Mich.—La Plaine Bay Harbor Co. v. Monroe, Walk 166, 62 C.J. p. 783 note 13.
16. Admission to statehood affecting operation of ordinance see Constitutional Law § 42 c.
17. U.S.—Cabebe v. Acheson, C.A. Hawaii, 183 F.2d 785.

## Acquisition:

1. And ownership of property by United States in general see the C.J.S. title United States § 71, also 65 C.J. p. 1804 note 28 et seq.
2. By sovereign power of territory from another sovereign power in general see International Law § 8.
3. U.S.—Hooven & Allison Co. v. Evatt, Ohio, 65 S.Ct. 870, 324 U.S. 852, 39 L.Ed. 1262, rehearing denied 65 S.Ct. 1198, 326 U.S. 882, 69 L.Ed. 2004.
4. 62 C.J. p. 784 note 17.
5. Power of congress to organize see infra § 15.
6. Validity of treaty of cession.
7. The Treaty of Paris, ratified by Spain and the United States at the conclusion of the Spanish-American War, was not void in so far as Spain purported therein to cede Puerto Rico to the United States.—Ruiz Allica v. U. S., C.A. Puerto Rico, 180

## - §§ 3-5 TERRITORIES

86 C. J. S.

cution of war.<sup>15</sup> Usually, under general rules of international law, the property rights of inhabitants of territory so acquired by the United States have remained unaffected,<sup>16</sup> especially where express provision in this respect is made in the treaty of cession.<sup>17</sup> Accordingly, the rules under which the people lived under their former government define, for the sovereign of today, the rights previously acquired,<sup>18</sup> but, where rights based on the law of the former government continued after the United States acquired whatever rights the former government had, the validity of the claim is to be judged also in the light of the public law of the United States.<sup>19</sup>

## § 4. What Law in Force

As shown *infra* §§ 5-7, the laws of the former sovereignty, and the Constitution and laws of the United States or of a particular state, may be made to apply to newly acquired territory of the United States.

Examine Pocket Parts for later cases.

## § 5. — Laws of Former Sovereignty

Laws of the former sovereignty intended for the protection of private rights of individuals or for the regulation of their general conduct continue in force in territory acquired by the United States except to the

extent that such laws are inconsistent with the Constitution, laws, and political institutions of the United States or of a provisional government established under the control of the United States, and except laws which have been duly altered by competent authority.

In accordance with general rules discussed in International Law § 8, laws of the former sovereignty have continued in force in territory acquired by the United States which congress has set up as a political entity or subdivision,<sup>20</sup> in so far as such laws are intended for the protection of private rights<sup>21</sup> or for the regulation of intercourse between, and the general conduct of, individuals,<sup>22</sup> except to the extent that the laws of the former sovereign are inconsistent with the Constitution and laws of the United States<sup>23</sup> or with the valid ordinances of a provisional government established by military authorities in possession and occupation under the control of the president of the United States,<sup>24</sup> and except laws which are political in character,<sup>25</sup> or which are in conflict with the political character and institutions of the United States,<sup>26</sup> or which have been duly altered by the government of the United States<sup>27</sup> or by the territorial government.<sup>28</sup>

The rule that the former law continues in force applies particularly to laws affecting commercial transactions or relationships,<sup>29</sup> individual property rights,<sup>30</sup> and domestic relationships;<sup>31</sup> and, by ex-

F.2d 370, followed in *Cancel v. U. S.*, 180 F.2d 373.

15. *U.S.—Hooven & Allison Co. v. Evatt*, Ohio, 65 S.Ct. 370, 324 U.S. 652, 89 L.Ed. 1282, rehearing denied 65 S.Ct. 1193, 325 U.S. 392, 39 L.Ed. 2004.

62 C.J. p 784 note 18.

Effect of:

Conquest in general see International Law § 4.

Military occupation generally see the C.J.S. title War and National Defense § 38, also 67 C.J. p 421 notes 78-80.

16. *U.S.—Playa De Flor Land & Imp. Co. v. U. S.*, D.C. Canal Zone, 70 F.Supp. 281; modified on other grounds, C.C.A., 180 F.2d 131.

62 C.J. p 784 note 20.

Acquisition of citizenship by cessation of territory see Citizens § 11.

Collective naturalization effected by acquisition of territory of another nation see Aliens § 135.

Ownership of public lands in general and in territories see Public Lands § 2.

Status of inhabitants of domain transferred from one sovereign power to another in general see International Law § 8 b.

17. *U.S.—Alvaraz v. U. S.*, Ct.Cl., 30 S.Ct. 341, 216 U.S. 167, 54 L.Ed. 432.

62 C.J. p 784 note 31.

Recognition of land grants made by former sovereign see Public Lands § 238-285.

18. *U.S.—U. S. v. Fullard-Leo*, Hawaii, 57 S.Ct. 1267, 351 U.S. 268, 91 L.Ed. 1474.

19. *U.S.—U. S. v. Fullard-Leo*, *supra*.

20. *U.S.—American Ins. Co. v. 356 Bales of Cotton*, S.C., 1 Pet. 511, 7 L.Ed. 242.

62 C.J. p 785 note 81—69 C.J. p 523 notes 46-48.

Conflict of statutes of territorial legislature with constitutional and other statutory provisions see *infra* § 22.

Legislation by territorial legislature see *infra* §§ 22-27.

Operation of common law in territories see Common Law § 18.

21. *U.S.—Vilas v. City of Manila*, Philippine, 31 S.Ct. 416, 220 U.S. 346, 55 L.Ed. 491—*Ortega v. Lara*, Puerto Rico, 28 S.Ct. 707, 202 U.S. 329, 50 L.Ed. 1055.

22. *U.S.—American Ins. Co. v. 356 Bales of Cotton*, S.C., 1 Pet. 511, 7 L.Ed. 242.

23. *U.S.—Leitensdorfer v. Webb*, N.M., 20 How. 176, 15 L.Ed. 491.

63 C.J. p 784 note 25—69 C.J. p 554 note 67.

24. *U.S.—Leitensdorfer v. Webb*, *supra*.

62 C.J. p 785 note 26.

Laws of provisional government in general see *infra* § 16.

25. *U.S.—American Ins. Co. v. 356 Bales of Cotton*, S.C., 1 Pet. 511, 7 L.Ed. 242.

26. *Philippine—U. S. v. Namit*, 28 Philippine 325.

62 C.J. p 785 note 28.

27. *U.S.—American Ins. Co. v. 356 Bales of Cotton*, S.C., 1 Pet. 511, 7 L.Ed. 242.

63 C.J. p 785 note 29.

Power of congress over territories in general see *infra* §§ 15-21.

28. *U.S.—In re Chavez*, N.M., 149 F. 73, 80 C.C.A. 451.

*Puerto Rico—Gimenes v. Brinea*, 10 Puerto Rico 134.

Power of territorial legislature in general see *infra* § 22.

29. *U.S.—Philippine Sugar Estates Development Co. v. U. S.*, 39 Ct.Cl. 225.

62 C.J. p 785 note 34.

30. *U.S.—In re Chavez*, N.M., 149 F. 73, 80 C.C.A. 451.

62 C.J. p 785 note 35.

31. *U.S.—In re Chavez*, *supra*.

62 C.J. p 785 note 36.



express provision of certain administrative orders or of the organic acts of the territories, former laws have been continued in force.<sup>32</sup>

#### § 6. — Application of Constitution and Laws of United States

The Constitution and laws of the United States do not apply automatically and as a whole to newly acquired territory of the United States or to territory which merely belongs to, as distinguished from territory which is incorporated into, the United States; but provisions of the Constitution and acts of congress, in so far as they can apply, may be made applicable.

While in a general sense the federal Constitution is in force wherever and whenever the sovereign power of the United States is exerted,<sup>33</sup> it does not, as a whole, apply automatically to newly acquired territory,<sup>34</sup> or to territory which merely belongs to, as distinguished from territory which is incorporated into, the United States,<sup>35</sup> even though such territory has been given an organized government.<sup>36</sup> Only a part of the restrictions or limitations of the

federal Constitution apply in respect of such unincorporated territory,<sup>37</sup> the applicable provisions in general being those which guarantee or secure certain fundamental personal rights<sup>38</sup> or which limit the exercise of executive and legislative power when exerted for or over the insular possessions;<sup>39</sup> and generally other guaranties of the Constitution extend to such possessions only as congress, in the exercise of its legislative power over territory belonging to the United States, has made those guaranties applicable.<sup>40</sup>

Provisions of the federal Constitution, in so far as they can apply, may be made applicable to territorial matters by express provision in the organic act of a particular territory<sup>41</sup> or by a general statutory provision applicable to "organized territories,"<sup>42</sup> and, where a territory is incorporated into the United States, the federal Constitution applies to, and becomes operative in, such territory,<sup>43</sup> even in the absence of express provision thereof by

22. U.S.—People of Virgin Islands v. Price. C.A. Virgin Islands, 181 F.2d 291.

23. C.J. p 785 note 37.

Continuation of laws in effect by organic act in general see infra § 17.

24. U.S.—Balzac v. People of Puerto Rico, Puerto Rico, 43 S.Ct. 343, 142, 368 U.S. 298, 58 L.Ed. 287.

25. C.J. p 785 note 38.

Applicability to territories of constitutional provisions relating to:

Due process of law see Constitutional Law § 172.

Equal protection of the law see Constitutional Law § 503-503.

Freedom of speech and of the press see Constitutional Law § 213.

Full faith and credit see Conflict of Laws § 3.

Impairment of obligation of contract see Constitutional Law § 277.

Presentment or indictment by grand jury see Indictments and Information § 9 b (1).

Privileges or immunities of citizens see Constitutional Law § 467.

Regulation of commerce see Commerce § 2.

Religious liberty and freedom of conscience see Constitutional Law § 208.

Trial by jury see Juries § 18.

Unreasonable searches and seizures see Searches and Seizures § 3.

Constitutional restrictions on power of:

Congress see infra § 15-21.

Territorial legislature see infra § 12.

"That the Constitution is in effect in the territories . . . has been so often determined in the affirmative that it is no longer an open question."—O'Donoghue v. U. S. Ct. Cl., 52 S.Ct. 740, 747, 289 U.S. 512, 77 L.Ed. 1358.

26. U.S.—Martinez v. Mullaney, D. Cal. Alaska, 88 F.Supp. 75.

27. C.J. p 785 note 40.

28. U.S.—Iriarte v. U. S. C.A. Puerto Rico, 157 F.2d 105, 167 A.L.R. 494—Government of Guam v. Pennington, D.C. Guam, 114 F.Supp. 307—U. S. v. Seagraves, D.C. Guam, 100 F.Supp. 424.

29. C.J. p 785 note 41.

Incorporated and unincorporated territories in general see infra § 12.

30. U.S.—Balzac v. People of Puerto Rico, Puerto Rico, 43 S.Ct. 343, 358 U.S. 328, 58 L.Ed. 437.

Organized and unorganized territories see infra § 11.

31. U.S.—Dorr v. U. S., Philippine, 24 S.Ct. 808, 195 U.S. 128, 49 L.Ed. 123, 1 Ann.Cas. 897.

32. C.J. p 785 note 43.

33. U.S.—Arroyo v. Puerto Rico Transp. Authority, C.C.A. Puerto Rico, 164 F.2d 748—Thornberg v. Jorgensen, C.C.A. Virgin Islands, 60 F.2d 471—U. S. ex rel. Legullion v. Davis, D.C. Virgin Islands, 115 F.Supp. 292.

34. C.J. p 785 note 44.

35. U.S.—Hooven & Allison Co. v. Ezzatt, Ohio, 68 S.Ct. 870, 324 U.S. 488, 89 L.Ed. 1253, rehearing denied 68 S.Ct. 1194, 326 U.S. 833, 89 L.Ed. 2004.

36. U.S.—Hooven & Allison Co. v. Ezzatt, supra.

Power of congress over territory belonging to the United States generally see infra § 15.

41. U.S.—Duncan v. Kahanamoku, Hawaii, 68 S.Ct. 506, 327 U.S. 304, 90 L.Ed. 683—Alaska S. S. Co. v. Mullaney, C.A. Alaska, 180 F.2d 806—Arroyo v. Puerto Rico Transp. Authority, C.C.A. Puerto Rico, 164 F.2d 748.

42. C.J. p 785 note 45.

43. U.S.—Nagle v. U. S., Alaska, 191 F. 141, 111 C.C.A. 821.

Alaska—U. S. v. North Pacific Wharves, etc., Co., 4 Alaska 552.

44. U.S.—Grant v. Pilgrim, C.C.A. Alaska, 95 F.2d 583.

45. C.J. p 785 note 46.

Alaska

U.S.—Grant v. Pilgrim, supra.

Hawaii

Constitution of United States generally is applicable to Territory of Hawaii.

U.S.—Staiback v. Mo Hock Ke Lok Po, Hawaii, 69 S.Ct. 608, 235 U.S. 263, 93 L.Ed. 741—Inter-Island Steam Nav. Co. v. Territory of Hawaii, C.C.A. Hawaii, 96 F.2d 413.

46. C.J. p 785 note 47.

47. C.J. p 785 note 48.

48. C.J. p 785 note 49.

49. C.J. p 785 note 50.

50. C.J. p 785 note 51.

51. C.J. p 785 note 52.

52. C.J. p 785 note 53.

53. C.J. p 785 note 54.

54. C.J. p 785 note 55.

## § 6 TERRITORIES

86 C.J.S.

congress.<sup>44</sup> The so-called "bill of rights" contained in some organic acts makes applicable statutory equivalents of certain provisions of the federal Constitution.<sup>45</sup> Under the terms of the compact offered to the people of Puerto Rico by Pub.L. 600, 48 U.S.C.A. §§ 731b-731d, and by the Joint Resolution of Congress approving the constitution adopted by the people of Puerto Rico pursuant thereto, 48 U.S.C.A. § 731d note, the government of the newly created Commonwealth of Puerto Rico is subject to "the applicable provisions of the constitution of the United States."<sup>46</sup>

*Laws of United States.* In general the acts of congress do not extend to newly acquired territory in the absence of an expression of intention so to

extend them,<sup>47</sup> and a particular act may expressly except the territories from the operation of the act.<sup>48</sup> Specific federal statutes may, however, be extended to territories either by express provision in the particular statute<sup>49</sup> or by a statutory provision applicable to a specific territory.<sup>50</sup> Laws not locally inapplicable or otherwise excepted, may also be extended to territories by a general provision applicable to organized territories<sup>51</sup> or by a general provision in the organic law.<sup>52</sup> Furthermore, there is authority for the view that even in the case of a territory which is not incorporated into the United States certain acts of congress are necessarily operative without an express extension of such acts,<sup>53</sup> notwithstanding there has been an

Hawaii.—*Corpus Juris* cited in *Territory v. Yoshimura*, 35 Hawaii 324, 330.

62 C.J. p 786 note 48.

44. U.S.—*Rasmussen v. U. S.*, Alaska, 28 S.Ct. 514, 197 U.S. 516, 49 L.Ed. 362.

62 C.J. p 787 note 48.

45. U.S.—*Dorr v. U. S.*, Philippine Islands, 24 S.Ct. 308, 185 U.S. 188, 48 L.Ed. 128.

62 C.J. p 787 note 51.

Operation and effect of bill of rights in general see *infra* § 17.

46. U.S.—*Mora v. Mejias*, C.A. Puerto Rico, 208 F.2d 377.

Interstate commerce clause has not been made a part of the compact.—*Mora v. Torres*, D.C. Puerto Rico, 113 F.Supp. 209, affirmed, C.A. Mora v. Mejias, 208 F.2d 377.

47. U.S.—*U. S. v. Ganoy*, D.C. Minn., 54 F.Supp. 785, affirmed, C.C.A. 149 F.2d 783, certiorari denied 56 S.Ct. 168, 328 U.S. 787, 90 L.Ed. 463, rehearing denied 56 S.Ct. 229, 328 U.S. 810, 90 L.Ed. 495.

62 C.J. p 787 note 52.

Applicability, to territories and insular possessions, of:

Fair Labor Standards Act see *Master and Servant* § 131(3).

Federal Employers' Liability Act see *Master and Servant* § 173 c (1).

Immigration laws see *Aliens* § 34.

48. U.S.—*Bowles v. Eastern Sugar Associates*, D.C. Md., 84 F.Supp. 509, reversed on other grounds, C.C.A., 159 F.2d 298.

62 C.J. p 787 note 53.

Exception relating to general land laws

(1) Failure of subsequent act of congress, which covered only the subject of a legislature for Alaska, to repeat the statement in previously enacted laws that general land laws of United States should not apply in Alaska is of no significance in determining whether such general land

laws are applicable in Alaska.—*U. S. v. Rogge*, 10 Alaska 130.

(2) The federal statute granting a right of way for construction of highways over public lands not reserved for public uses is not a "general land law" within federal statute providing for a civil government for Alaska and that nothing contained in such statute shall be construed to put in force in Alaska general land laws of United States, and hence provisions of statute granting a right of way were applicable to Alaska.—*U. S. v. Rogge*, *supra*.

49. U.S.—*People of Puerto Rico v. Shell Co.*, Puerto Rico, 58 S.Ct. 167, 302 U.S. 253, 52 L.Ed. 256.—*Ruiz Alcea v. U. S.*, C.A. Puerto Rico, 180 F.2d 870, followed in *Canciel v. U. S.*, 180 F.2d 873.—*N. L. R. B. v. Gonzalez Padin Co.*, C.C.A. 1, 161 F.2d 353.—*Velasquez v. Hunter*, C.C.A. Kan., 158 F.2d 806, certiorari denied 57 S.Ct. 1084, 330 U.S. 210, 91 L.Ed. 1291.—*Rivera v. U. S.*, C.C.A. Puerto Rico, 151 F.2d 47.—*Crespo v. U. S.*, C.C.A. Puerto Rico, 151 F.2d 44, certiorari dismissed 56 S.Ct. 590, 327 U.S. 756, 90 L.Ed. 391.—*Sun Chong Lee v. U. S.*, C.C.A. Hawaii, 125 F.2d 95.—*Ex parte Rogers*, D.C. Guam, 164 F.Supp. 392.—*Torres v. Hiatt*, D.C. Ga., 38 F.Supp. 614.—*International Longshoremen's & Warehousemen's Union v. Ackerman*, D.C. Hawaii, 82 F.Supp. 65, reversed on other grounds, C.A. Ackerman v. International Longshoremen's and Warehousemen's Union, 187 F.2d 860, certiorari denied International Longshoremen's and Warehousemen's Union v. Ackerman, 73 S.Ct. 65, 342 U.S. 839, 96 L.Ed. 848.

62 C.J. p 787 note 54.

50. U.S.—*Alaska S. S. Co. v. Mulaney*, C.A. Alaska, 180 F.2d 566.

62 C.J. p 787 note 55.

51. U.S.—*U. S. v. Rogge*, Alaska, 10 Alaska 130.

62 C.J. p 787 note 56.

Statute held not repealed by failure of the act of congress, making further provision for civil government of Alaska to repeat substance of previously adopted federal statute making Constitution and laws of the United States not locally inapplicable extend to all territories then existing or thereafter created, which was contained in the act of 1884 providing a civil government for Alaska.—*U. S. v. Rogge*, *supra*.

52. U.S.—*Alaska S. S. Co. v. Mulaney*, C.A. Alaska, 180 F.2d 505.—*People of Puerto Rico v. Shell Co.*, C.C.A. Puerto Rico, 56 F.2d 677, reversed on other grounds 56 S.Ct. 167, 302 U.S. 253, 52 L.Ed. 256.—*Lacruana v. Ansell*, D.C. Guam, 102 F.Supp. 919.—*Crain v. Government of Guam*, D.C. Guam, 97 F.Supp. 432, affirmed, C.A., 185 F.2d 414.

62 C.J. p 787 note 57.

Hawaii

Laws of United States generally are applicable to Territory of Hawaii.—*Stainback v. Mc Hock Ke Lok Po*, Hawaii, 69 S.Ct. 606, 339 U.S. 563, 92 L.Ed. 741.

Applicability to general acts only

Provision in Organic Act of Puerto Rico extending United States laws to Puerto Rico applied only to general acts which were without special application, and which were broad enough to apply to the possessions, and not to acts expressly applicable to United States district courts.—*Munoz v. Puerto Rico Ry. Light & Power Co.*, C.C.A. Puerto Rico, 82 F.2d 282, certiorari denied 56 S.Ct. 256, 298 U.S. 689, 30 L.Ed. 1402.

53. Philippine.—*Tan Te v. Bell*, 37 Philippine 354.

62 C.J. p 787 note 58.

Dependant on character and aim of act

U.S.—*People of Puerto Rico v. Shell Co.*, Puerto Rico, 58 S.Ct. 167, 302 U.S. 253, 52 L.Ed. 256.

express withholding by congress of a blanket extension of the laws of the United States, coupled with the specific extension of certain laws.<sup>54</sup>

### § 7. — Application of Laws or Constitution of State

In some cases the laws of a particular state were extended to a territory.

In some cases congress has provided that the laws of a particular state shall be extended to a territory.<sup>55</sup> The Organic Act of Puerto Rico did not extend to that island any provision of any state constitution.<sup>56</sup>

### § 8. Territorial Extent and Boundaries

Congress may divide the territorial lands into terri-

torial divisions, states, or territories and states; and the extent or boundaries of a territory may be fixed in the organic act.

Congress has power to divide the territorial lands of the United States into territorial divisions, states, or territories and states;<sup>57</sup> and the extent or boundaries of a territory may be fixed in the organic act.<sup>58</sup> A suit by the United States against a state, to determine the boundaries between such state and a territory of the United States was properly brought in equity.<sup>59</sup>

### § 9. Political Status and Relations and Classification

A territory is a body politic, but it is not a sovereign in the true sense of that term.

A territory is a body politic.<sup>60</sup> It is not "sover-

Act antedating acquisition of territory

Fact that congress did not have Puerto Rico in mind at time of enactment of Sherman Anti-Trust act was not enough to exclude Puerto Rico from operation of act, but it was necessary to go further and say that, if acquisition of Puerto Rico had been foreseen, congress would have so varied its comprehensive language as to exclude Puerto Rico from operation of act.—People of Puerto Rico v. Shell Co., *infra*.

54. *Philippine*.—People v. Sandel, 51 Philippine 34.—Tan Te v. Bell, 27 Philippine 154.

55. *U.S.*—*U. S. v. Bridgman*, Ohio, 14 S.Ct. 748, 153 U.S. 48, 38 L.Ed. 831.

56. *C.J.* p 787 note 60, p 788 notes 61-62.

Construction of statutes adopted from other jurisdictions generally see Statutes §§ 171-172.

57. *Puerto Rico*.—*Rodriguez v. Miller*, 33 Puerto Rico 581.

58. *Neb.*—*First Nat. Bank of Missouri Valley*, Iowa, v. McFerrin, 3 N.W.2d 166, 143 Neb. 617.

59. *Wash.*—*Watts v. U. S.*, 1 Wash. Terr. 188.

60. *C.J.* p 788 note 67. Where territorial statute operative see *infra* § 12.

#### Nebraska

(1) Where congress at time of admitting Iowa into Union established boundary as middle of channel of Missouri River in accordance with enabling act, all land on western side of river remained or became part of Nebraska Territory, in view of subsequent act organizing territory to west of the river using same designation for eastern boundary of such organized territory as it used for western boundary of Iowa.—*First Nat. Bank of Missouri Valley*, Iowa, v. McFerrin, 3 N.W.2d 166, 143 Neb. 617.

(2) Congress intended in formation of organized territory of Nebraska out of territory west of Missouri River and formation of State of Nebraska out of territory of Nebraska, that eastern boundary adjacent to State of Iowa should be coincident and coterminous with the middle of the channel of the Missouri River as it existed at the time Iowa was admitted into the Union.—*First Nat. Bank of Missouri Valley*, Iowa, v. McFerrin, *supra*.

59. *U.S.*—*U. S. v. Texas*, Tex., 12 S.Ct. 488, 143 U.S. 621, 38 L.Ed. 285, 62 C.J. p 788 note 68.

Original jurisdiction of supreme court of suit by United States against state see Federal Courts § 184.

60. *Mont.*—*Territory v. Hildebrand*, 3 Mont. 426.

Alaska is a territory of the United States.—*U. S. v. Farwell*, D.C.Alaska, 74 F.Supp. 35—42 C.J. p 759 note 63.

Hawaii is a territory of the United States.

*U.S.*—*Stainbank v. Mo Hock Ke Lok Po*, Hawaii, 59 S.Ct. 505, 326 U.S. 168, 32 L.Ed. 741.—*Sun Chong Lee v. U. S.*, D.C.Hawaii, 125 F.2d 96, Philippine.—*In re Shoop*, 41 Philippine 215.

#### Oklahoma Territory; Indian Territory

(1) By the organic act of Oklahoma Oklahoma Territory was carved out of the Indian Territory and became a political entity as an organized territory of the United States, separate and distinct from the Indian Territory as any other organized territory of the United States.—*Chicago, R. I. & P. Ry. Co. v. Gint*, 190 P. 378, 79 Okl. 8.

(2) The rest of the Indian Territory remained an unorganized territory.—*Corpus Juris* cited in *City of Chickasha v. Doerfer*, 48 P.2d 289, 201,

173 Okl. 217.—*Chicago, R. I. & P. R. Co. v. Gint*, 190 P. 378, 79 Okl. 8.

(3) Government of Indians and Indian country in general see Indians §§ 87-89.

#### Philippine Islands

(1) Prior to the proclamation of their independence in 1948, it was stated broadly that the Philippine Islands were not a territory.—*U. S. v. Hull*, 15 Philippine 1.

(2) However, they were recognized as a territory for some purposes.—*In re Shoop*, 41 Philippine 215—62 C.J. p 789 note 69.

(3) Under the Philippine Independence Act of 1934, presidential proclamation of Philippine independence, and treaty of July 4, 1946, with the Republic of the Philippines, contemplating that the United States would surrender all sovereignty "over the territory and people of the Philippines," quoted expression was all-inclusive, excepting only those Filipinos who have by their own volition taken authorized steps to separate themselves from a national relation to the government of the Philippines.—*Cabebe v. Acheson*, C.A. Hawaii, 183 F.2d 795.

#### Puerto Rico

(1) The 1950 Act of congress relating to organization of Puerto Rican government and the Federal Relations Act incorporated therein and the Puerto Rican Constitution establish a compact between Puerto Rican people and United States and create a new relationship between them, as a result of which Puerto Rico is no longer a possession, territory, or dependency but enjoys self-government and has a government which is no longer a Federal Government agency exercising delegated power.—*Mora v. Torres*, D.C.Puerto Rico, 115 F.Supp. 309, affirmed, C.A., *Mora v. Majia*, 204 F.2d 377.



## §§ 9-10 TERRITORIES

86 C.J.S.

eign" in the true sense of that term,<sup>61</sup> that is, it is not a distinct or independent sovereignty<sup>62</sup> or an independent government;<sup>63</sup> and a territory has been regarded as a mere dependency of the United States.<sup>64</sup> While, by certain organic acts, some attributes of sovereignty have been conferred,<sup>65</sup> the so-called "sovereignty" of a territory comes from congress and not from the people.<sup>66</sup>

While the view has been taken that the relation of a territory to the general government is no more independent than that of a city to a state in which it is situated and which has given to it its municipal organization,<sup>67</sup> and that the relation of territories to the general government is much the same as that which counties bear to the several states,<sup>68</sup> the view has also been expressed that the analogy be-

tween the relation between counties and other municipal organizations to a state legislature and that of a territory to congress is by no means complete<sup>69</sup> and that the relation between a territory and the general government is sui generis, having no complete analogy in any other political organizations.<sup>70</sup>

The relation of the cities of a territory to the territory is a precise counterpart of the relation of the cities of any state to the state in which they are embraced.<sup>71</sup> Thus a city or county is a subdivision of a territory,<sup>72</sup> but a board or bureau is not.<sup>73</sup>

## § 10. — "State" Compared and Distinguished

The word "state" is often used in contradistinction

(8) It is a political entity created by the act with the consent of the people of Puerto Rico and joined in union with the United States of America under the terms of the compact.—*Mora v. Mejias*, C.A. Puerto Rico, 208 F.2d 377—*Mora v. Mejias*, D.C. Puerto Rico, 115 F.Supp. 510.

(3) Prior to the establishment of the Commonwealth, in a broad sense at least, Puerto Rico was regarded as a territory.—*Velasquez v. Hunter*, C.A. Kan., 158 F.2d 508, certiorari denied 47 S.Ct. 1084, 230 U.S. 846, 21 L.Ed. 1281—*Craepo v. U. S.*, C.C.A. Puerto Rico, 151 F.2d 44, certiorari dismissed 68 S.Ct. 530, 327 U.S. 738, 90 L.Ed. 991—*Torres v. Hiatt*, D.C. Ga., 82 F.Supp. 814—52 C.J. p. 789 note 36.

(4) By the ratification of the treaty of Paris, the island became territory of the United States.—*De Lima v. Bidwell*, N.Y., 21 S.Ct. 743, 182 U.S. 1, 45 L.Ed. 1041—*Ruiz Allcas v. U. S.*, C.A. Puerto Rico, 180 F.2d 870, followed in *Canoe v. U. S.*, 180 F.2d 873.

(5) The people of Puerto Rico had no political status in the ordinary sense during the period of the military government.—*Elkins v. Puerto Rico*, 5 Puerto Rico Fed. 103.

(6) Even after the creation of a civil government, the view was expressed that it corresponded more closely to what are called possessions of the British crown than to a (technical) territory of the United States.—*Tajador Sugar Co. v. Richardson*, 5 Puerto Rico Fed. 234, affirmed 58 S.Ct. 478, 241 U.S. 44, 80 L.Ed. 478.

(7) Fact that the term "territory," as used in some acts of congress, does not include Puerto Rico appears from the context.—*Gonzalez v. People of Puerto Rico*, C.C.A. Puerto Rico, 51 F.2d 81—52 C.J. p. 789 note 87.

## Virgin Islands

(1) The Virgin Islands are a territory of the United States.—*H. L. Hettinger & Co. v. Municipality of St. Thomas and St. John*, C.A. Virgin Islands, 187 F.2d 774—*Harris v. Municipality of St. Thomas and St. John*, D.C. Virgin Islands, 111 F.Supp. 63.

(2) In providing in the Organic Act that municipality of St. Croix and municipality of St. Thomas and St. John are constituted into bodies politic and juridic under the present name of each municipality, congress clearly intended to set up two distinct legal entities and the fact that they were referred to as municipalities merely continued a prior designation and did not make them municipal corporations without more said.—*Harris v. Municipality of St. Thomas and St. John*, supra.

51. U.S.—*H. L. Hettinger & Co. v. Municipality of St. Thomas and St. John*, C.A. Virgin Islands, 187 F.2d 774.

62 C.J. p. 788 note 71.

Admission of territory to statehood see States § 22.

Doctrine of state sovereignty applicable to territory see infra § 10.

Immunity from suit see infra § 38.

## Commonwealth of Puerto Rico

Under the terms of the compact under which government of Commonwealth of Puerto Rico was established Puerto Rico is sovereign over matters not ruled by the Constitution of the United States.—*Mora v. Mejias*, D.C. Puerto Rico, 115 F.Supp. 510.

60. U.S.—*Talbott v. Board of County Supervisors*, Mont., 11 S.Ct. 594, 139 U.S. 488, 35 L.Ed. 310.

63. U.S.—*In re Lane*, Kan., 10 S.Ct. 760, 135 U.S. 448, 34 L.Ed. 219.

64. U.S.—*Snow v. U. S.*, Utah, 18 U.S. 217.

62 C.J. p. 788 note 74.

Exercise of delegated powers see infra § 18.

68. U.S.—*In re Puerto Rico Tax Appeals*, C.C.A. Puerto Rico, 15 F.2d 545, reversed on other grounds *Smallwood v. Gallardo*, 48 S.Ct. 12, 275 U.S. 56, 73 L.Ed. 182.

*Puerto Rico*.—*Rooley v. People*, 14 Puerto Rico 481, reversed on other grounds 33 S.Ct. 352, 327 U.S. 276, 57 L.Ed. 507.

Nature, construction, and operation of organic act in general see infra § 17.

## Temporary sovereign governments

Territories of the United States have been recognized as temporary sovereign governments organized under laws of congress and limited only by organic law and United States Constitution.—*Harris v. Municipality of St. Thomas and St. John*, D.C. Virgin Islands, 111 F.Supp. 62.

66. Dak.—*Territory v. O'Connor*, 41 N.W. 746, 5 Dak. 397, 3 L.R.A. 365.

67. U.S.—*Talbott v. County Board of Supervisors*, Mont., 11 S.Ct. 594, 139 U.S. 488, 35 L.Ed. 310.

68. U.S.—*First Nat. Bank v. Yankton County, Dak.*, 101 U.S. 123, 133, 25 L.Ed. 1045.

69. Dak.—*Territory v. Scott*, 20 N.W. 401, 3 Dak. 357.

70. Dak.—*Territory v. Scott*, supra.

71. U.S.—*U. S. v. Farwell*, D.C. Alaska, 78 F.Supp. 35.

72. Hawaii.—*Wong Nin v. City and County of Honolulu*, 22 Hawaii 379.

The City and County of Honolulu is a subdivision of the Territory of Hawaii.—*Wong Nin v. City and County of Honolulu*, supra.

73. Hawaii.—*Wong Nin v. City and County of Honolulu*, supra.

Board of water supply has status of a board or bureau, and is not a subdivision of the territory.—*Wong Nin v. City and County of Honolulu*, supra.



as "territory," and it is only in exceptional cases that the word applies to a territory. The chief distinction between a state and territory is in the matter of sovereignty and the relation of each to the government of the United States.

While in its general public sense, and as sometimes used in the statutes and the proceedings of the government, the word "state" has the larger meaning of any separate political community, including therein the territories, as well as those political communities known as states of the Union,<sup>74</sup> the word "state" is often used in contradistinction to "territory,"<sup>75</sup> and it is only in exceptional cases that the word applies to a territory.<sup>76</sup> A distinction between "states" and "territories" appears to be implicitly recognized by the federal Constitution,<sup>77</sup> and, usually at least, as used in the federal Constitution, the word "state" does not include "territory."<sup>78</sup> So also, a like distinction has been recognized by the courts.<sup>79</sup> While the organic act has sometimes conferred on a territory an autonomy similar to that of a state,<sup>80</sup> the doctrine of state sovereignty does not apply to territories in the full

sense,<sup>81</sup> and, while it has been said that an incorporated territory is as much a part of the United States as the states,<sup>82</sup> a territory sustains no such relations to the government of the United States as does a state,<sup>83</sup> even though the territory is incorporated into the United States,<sup>84</sup> since the several states of the Union possess all the powers and attributes of independent nations, except such as they have delegated by the Constitution to the United States, which is not the case with a territory.<sup>85</sup>

*Embryo or inchoate state.* Although a territory has been regarded as an embryo or inchoate state,<sup>86</sup> the use of the term "territory" does not necessarily involve the idea or promise of future statehood.<sup>87</sup>

## § 11. — Organized and Unorganized Territories

Some territories have been classified as organized territories.

Some territories have been classified as organized territories<sup>88</sup> as distinguished from that part of

74. U.S.—*Talbot v. Silver Bow County*, Mont., 11 S.Ct. 594, 139 U.S. 426, 25 L.Ed. 110.

District of Columbia as state see District of Columbia § 1 d. Original jurisdiction of federal court of action by or against citizen of territory see Federal Courts § 56. State defined in general see States § 1.

"Territories" including "states" see supra § 1.

75. U.S.—*U. S. v. Farwell*, D.C.Alaska, 76 F.Supp. 85.

81 C.J. p 790 note 97.

76. Puerto Rico.—*Puerto Rico American Tobacco Co. v. Benedicto*, 10 Puerto Rico Fed. 374.

77. U.S.—*Downes v. Bidwell*, N.Y., 11 S.Ct. 770, 183 U.S. 344, 250, 48 L.Ed. 1038.

82 C.J. p 792 note 99.

78. U.S.—*Territory of Alaska v. Troy*, Alaska, 42 S.Ct. 241, 258 U.S. 101, 56 L.Ed. 487.

83 C.J. p 720 note 1.

79. U.S.—*Loughborough v. Blake*, D.C. 5 Wheat. 217, 5 L.Ed. 98.

82 C.J. p 790 note 2.

Alaska is not a state.—*U. S. v. Farwell*, D.C.Alaska, 76 F.Supp. 25. Puerto Rico

(1) Prior to establishment of new relationship pursuant to which Puerto Rico enjoys self-government, Puerto Rico was not federated state.—*Sanabo v. Bacardi Corporation of America*, C.C.A.Puerto Rico, 109 F.2d 87, reversed on other grounds *Bacardi Corporation of America v. Dominech*, 41 S.Ct. 219, 311 U.S. 180, 88 L.Ed. 78.—*Mora v. Torres*, D.C.Puer-

to Rico, 112 F.Supp. 309, affirmed, C.A. Mora v. Mejias, 206 F.2d 377—63 C.J. p 790 note 9 [a].

(2) The rule has not been changed by the new relationship.—*Mora v. Torres*, D.C.Puerto Rico, 112 F.Supp. 309, affirmed, C.A. Mora v. Mejias, 206 F.2d 377.

(3) Thus Commonwealth of Puerto Rico has not become a state in the federal union like the forty-eight states.—*Mora v. Mejias*, C.A.Puerto Rico, 206 F.2d 377.

(4) It is, however, a "state" within a common and accepted meaning of that word.—*Mora v. Mejias*, C.A. Puerto Rico, 206 F.2d 377.—*Mora v. Mejias*, D.C.Puerto Rico, 112 F.Supp. 310.

The Virgin Islands are not a sovereign state.—*H. I. Hettlinger & Co. v. Municipality of St. Thomas and St. John*, C.A.Virgin Islands, 187 F.2d 774.

80. U.S.—*Puerto Rico Tax Appeals*, Puerto Rico, 16 F.2d 545, reversed on other grounds *Smallwood v. Gallardo*, 48 S.Ct. 22, 275 U.S. 56, 72 L.Ed. 183.

81 C.J. p 790 note 3.

81. Alaska.—*Wickersham v. Smith*, 7 Alaska 332.

Puerto Rico.—*People v. Fortuna Estates*, 10 Puerto Rico Fed. 130, affirmed 273 F. 300, certiorari denied 42 S.Ct. 290, 259 U.S. 587, 66 L.Ed. 1077.

Sovereignty of:

States in general see States § 2. Territories in general see supra § 3.

82. Mont.—*Silver Bow County v.*

*Davis*, 12 P. 638, 6 Mont. 308, affirmed 11 S.Ct. 594, 139 U.S. 428, 35 L.Ed. 110.

Incorporation in general see infra § 12.

83. Wash.—*Smith v. U. S.*, 1 Wash. T. 362.

63 C.J. p 790 note 5.

84. Alaska.—*Juneau Hardware Co. v. Troy*, 5 Alaska 384, affirmed *Territory of Alaska v. Troy*, 48 S.Ct. 241, 258 U.S. 101, 68 L.Ed. 487.

85. Wash.—*Smith v. U. S.*, 1 Wash. T. 362.

86. U.S.—*Harris v. Municipality of St. Thomas and St. John*, D.C.Virgin Islands, 111 F.Supp. 63.

82 C.J. p 790 note 10.

87. Puerto Rico.—*Peck Steamship Line v. New York, etc. Steamship Co.*, 3 Puerto Rico Fed. 109.

62 C.J. p 790 note 11.

88. U.S.—*Interstate Commerce Commission v. U. S. ex rel. Humbolt S. S. Co.*, App.D.C., 32 S.Ct. 556, 558, 224 U.S. 474, 56 L.Ed. 849.

Form of territorial government see infra § 19.

Alaska has been regarded as an organized territory.—*U. S. v. Farwell*, D.C.Alaska, 76 F.Supp. 25—63 C.J. p 790 note 46, p 790 note 15.

Hawaii has been regarded as an organized territory.—*In re Shoop*, 41 Philippine 212.

Puerto Rico

(1) Prior to the establishment of the Commonwealth of Puerto Rico, Puerto Rico was regarded as an organized territory.—*N.L.R.B. v. Gonzalez Padin Co.*, C.C.A.1, 161 F.2d

## §§ 11-13 TERRITORIES

86 C.

the public domain belonging to the United States which has no separate organized government,<sup>89</sup> or even, in some cases, from certain entities which operate under a form of self-government established by congress.<sup>90</sup>

## § 12. — Incorporated and Unincorporated Territories

Territories or possessions of the United States have been classified as incorporated, which are those which have become part of the United States, and unincorporated, which are those which have not been made part of the United States.

Territories or possessions of the United States have been classified as incorporated and unincorporated.<sup>91</sup> Incorporated territories are those which have become part of the United States<sup>92</sup> and which are entitled to the benefits of the Constitution, as discussed supra § 5. Unincorporated territories or possessions are those which have not been made part of the United States for all purposes,<sup>93</sup> those which merely belong to it<sup>94</sup> or are "appurtenant to" it.<sup>95</sup>

and which, as discussed supra § 6, are not within the operation of all provisions of the federal Constitution in the absence of affirmative action by congress. The view has been expressed that distinction between "incorporated" and "unincorporated" territories concerns the political relation to the Union<sup>96</sup> and not the civil rights of the residents.<sup>97</sup> Incorporation into the Union may not be assumed without express declaration or an implication so strong as to exclude any other view,<sup>98</sup> but in the absence of other and countervailing evidence a law of congress or a provision in a treaty acquiring territory, declaring an intention to confer political and civil rights on the inhabitants of the new lands as American citizens, may be properly interpreted to mean an incorporation of it into the Union.<sup>99</sup>

## § 13. — Foreign Territory or Country

Although territories or possessions are not generally considered foreign country or territory, domain may be treated as a territory or possession of the United States

513—*Cases v. U. S., C.C.A. Puerto Rico*, 131 F.2d 216, certiorari denied *Cases Velazquez v. U. S.*, 83 S.Ct. 1431, 312 U.S. 770, 87 L.Ed. 1716, rehearing denied 55 S.Ct. 1010, 324 U.S. 889, 89 L.Ed. 1487—*Sancho v. Bacardi Corporation of America, C.C.A. Puerto Rico*, 109 F.2d 57, reversed on other grounds *Bacardi Corporation of America v. Dominech*, 81 S.Ct. 219, 311 U.S. 150, 35 L.Ed. 99—42 C.J. p 790 note 18.

(2) However, it was not an organized territory in the technical sense of the word—*De Lima v. Bidwell*, N.Y., 21 S.Ct. 743, 183 U.S. 1, 45 L.Ed. 1041—*Ruiz Alices v. U. S., C.A. Puerto Rico*, 130 F.2d 370, followed in *Cancel v. U. S.*, 130 F.2d 173—*U. S. v. Farwell*, D.C. Alaska, 75 F.Supp. 35.

Philippine Islands prior to their independence were not regarded as organized territory.

U.S.—*U. S. v. Farwell*, supra.  
Philippine.—*In re Shoop*, 41 Philippine 212.

89. U.S.—*In re Lane*, Kan., 10 S.Ct. 760, 138 U.S. 442, 447, 34 L.Ed. 212.

90. Philippine.—*In re Shoop*, 41 Philippine 212.

91. U.S.—*Balsaz v. Puerto Rico*, *Puerto Rico*, 42 S.Ct. 342, 258 U.S. 298, 68 L.Ed. 637.  
62 C.J. p 790 note 21.

Incorporated territory compared with state see supra § 10.

92. U.S.—*Balsaz v. Puerto Rico*, supra—*Territory of Alaska v. Troy*, Alaska, 42 S.Ct. 241, 258 U.S. 101, 68 L.Ed. 487.

Alaska was incorporated into the United States.—*U. S. v. Farwell*, D.C. Alaska, 75 F.Supp. 55—42 C.J. p 791 note 23.

## Hawaii

(1) Territory of Hawaii was incorporated into the United States.—*Territory v. Yoshimura*, 25 Hawaii 324—62 C.J. p 791 note 34.

(3) Territory of Hawaii is part of United States, but is also insular possession.—*Nakazo Matsuda v. Burnett*, C.C.A. Cal., 68 F.2d 272.

93. U.S.—*Soto v. U. S., C.C.A. Virgin Islands*, 273 F. 628.  
62 C.J. p 790 note 24.

## Dependencies acquired as result of Spanish-American war

The dependencies, acquired by cession as the result of war with Spain, are territories belonging to, but not a part of, the Union of states under the Constitution.—*Hooven & Allison Co. v. Evatt*, Ohio, 35 S.Ct. 870, 224 U.S. 652, 59 L.Ed. 1263, rehearing denied 65 S.Ct. 1128, 235 U.S. 892, 59 L.Ed. 2004.

Guam is an unincorporated territory of the United States.—*Government of Guam v. Pennington*, D.C. Guam, 114 F.Supp. 907—*Leguana v. Ansell*, D.C. Guam, 102 F.Supp. 919—*U. S. v. Seagraves*, D.C. Guam, 100 F.Supp. 424—*Crain v. Government of Guam*, D.C. Guam, 97 F.Supp. 433, affirmed, C.A. 126 F.2d 414.

## Philippine Islands

Congress never assumed to incorporate the Philippine Islands as a territory of the United States.—*U. S. v. Farwell*, D.C. Alaska, 75 F.Supp. 26—*U. S. v. Gann*, D.C. Minn., 54 F.Supp. 755, affirmed 149 F.2d 789, certiorari denied 68 S.Ct. 164, 326 U.S. 787, 90 L.Ed. 483, rehearing denied 68 S.Ct. 322, 326 U.S. 310, 90 L.Ed. 495—62 C.J. p 791 note 25.

*Puerto Rico* was not incorporated into the United States.—*N.L.R.B. v. Gonzalez Padin Co.*, C.C.A. 1, 141 F.2d 562—*Iriarte v. U. S., C.C.A. Puerto Rico*, 157 F.2d 106, 167 ALR 484—*Cases v. U. S., C.C.A. Puerto Rico*, 131 F.2d 216, certiorari denied *Cases Velazquez v. U. S.*, 83 S.Ct. 1431, 312 U.S. 770, 87 L.Ed. 1716, rehearing denied 55 S.Ct. 1010, 324 U.S. 889, 89 L.Ed. 1487—*Sancho v. Bacardi Corporation of America, C.C.A. Puerto Rico*, 109 F.2d 57, reversed on other grounds *Bacardi Corporation of America v. Dominech*, 81 S.Ct. 219, 311 U.S. 150, 35 L.Ed. 99—*U. S. v. Farwell*, D.C. Alaska, 75 F.Supp. 35—62 C.J. p 791 note 26.

Virgin Islands were not incorporated into the United States.—*U. S. ex rel. Leguillon v. Davis*, D.C. Virgin Islands, 115 F.Supp. 372—42 C.J. p 791 note 37.

94. U.S.—*Balsaz v. Puerto Rico*, *Puerto Rico*, 42 S.Ct. 342, 258 U.S. 298, 68 L.Ed. 627.  
62 C.J. p 791 note 25.

95. U.S.—*Allen v. U. S., C.C.A. Virgin Islands*, 47 F.2d 733—*Soto v. U. S., C.C.A. Virgin Islands*, 273 F. 628.

96. *Puerto Rico*—*Puerto Rico American Tobacco Co. v. Benedicto*, 10 *Puerto Rico Fed.* 374.

97. *Puerto Rico*—*Puerto Rico Tobacco Co. v. Benedicto*, supra.

98. U.S.—*Balsaz v. Puerto Rico*, *Puerto Rico*, 42 S.Ct. 342, 258 U.S. 298, 68 L.Ed. 637.  
62 C.J. p 791 note 31.

99. U.S.—*Balsaz v. Puerto Rico*, supra.

## TENEMENT

Page 600

page 600

## TENOSYNOVITIS.

Inflammation of a sheath of a tendon.

82-84. *Science Med. C.*

La.—*Overmann v. American Mut. Liability Ins. Co.*  
La.App. 214 So.2d 198, 199.

Similarly expressed

(1) Thickening and growth of the sheath over the sinews of the wrist and hands, causing an inflammation of the tendon sheaths of the wrist and hands, whether degenerated DeQuervain disease or a ganglion cyst, is "tenosynovitis."—*Tennessee Tuffing Co. v. Porter*, 136 S.W.2d 519, 542, 206 Tenn. 630.

TEN-PERCENTER. A person who carries race track tickets for a true winner in exchange for a ten percent commission.

88-70. U.S.—U.S. v. Perl. C.A.Pa. 444 F.2d 1257, 1258.

## TENTATIVE.

page 601

94. Pa.—*Arvey v. Weiss*, 184 A.2d 24, 26, 198 Pa.Super. 506, 408.

96. Similarly defined

The word "tentative" is defined as provisional, conditional or uncertain.—*Devoport v. Devoport*, 128 S.E.2d 772, 774, 218 Ga. 475.

## TERM.

page 603

48. Similarly expressed

(2) "Term" is defined as proposition, limitation, or provision, stated or offered, as in contract, for the acceptance of another and determining the nature and scope of the agreement.—*Moore v. Wells*, 93 S.E.2d 731, 735, 212 Ga. 444.

—Denoting Time or Duration.

page 604

76. Tenure

Dr.—*Board of Ed. of Princeton County v. Gelick*, 398 S.W.2d 480, 481.

77. Dr.—*Board of Ed. of Princeton County v. Gelick*, 398 S.W.2d 481, 485.

page 606

63. Ky.—*Board of Ed. of Pendleton County v. Gelick*, 398 S.W.2d 483, 485.

65. Ky.—*Board of Ed. of Pendleton County v. Gelick*, 398 S.W.2d 483, 485.

"Term" has been distinguished from "vacancy."

83-1. Va.—*Price v. Davis*, 131 S.E. 784, 785, 144 Va. 320.

66 C.J. p. 385 note 79.

—In Conveyancing and with Reference to Tenancies.

1. Similarly defined

(1) A determined or prescribed duration, or as a limitation, or cross, of time for which an estate is granted.—*Cheridge v. U.S.* D.C.N.C. 218 F.Supp. 879, 812.

—Phrases.

12. Phrase

(7) "Unexpired term" distinguished from "tenancy."—*State ex rel. Joseph v. Dixon*, La.App. 4 So.2d 391, 396.  
66 C.J. p. 385 note 80.

## TERMINAL.

13. Similarly defined.

(1) Either of a carrier line, as a railroad, trucking, or shipping line or station, with freight and/or passenger stations, yards, and offices, any freight or passenger station central, to a considerable area or a junction station of a carrier line.—*Seaboard v. De Kalb County*, 77 S.E.2d 740, 743, 218 Ga. 41.

## TERMINATE.

16. Conn.—*Perruccio v. Allen*, 240 A.2d 912, 914, 154 Conn. 223.—*Interworld v. Nimitz*, 287 A.2d 1081, 1082, 34 Conn.Supp. 670.

Similarly defined

(7) Word "terminate" means to complete, or to finish.—*U.S. Pipe & Foundry Co. v. Nottin*, Ala.App. 96 So.2d 186, 194.

17. Conn.—*Perruccio v. Allen*, 240 A.2d 912, 914, 154 Conn. 223.

18. Ala.—*U.S. Pipe & Foundry Co. v. Nottin*, Ala.App. 96 So.2d 186, 194.

Conn.—*Perruccio v. Allen*, 240 A.2d 912, 914, 154 Conn. 223.

page 607

22. Ala.—*U.S. Pipe & Foundry Co. v. Nottin*, App. 96 So.2d 186, 194.

## TERMINATION.

28. Connates finality  
N.J.—*Duster v. Bellville Co.*, 160 A.2d 36, 38, 33 N.J. 154, 95 A.L.R.2d 1373.

21. Similarly defined

(1) "Termination" means and in time or existence, close, cessation, conclusion.—*Perruccio v. Allen*, 240 A.2d 912, 914, 154 Conn. 223.

page 608

## TERMINUS.

34. Similarly expressed

"Terminus" is not a word of territorial extent. It is a word connoting the end of a transportation line.—*Golden Gate Seaside S.R. Lines, Inc. v. Public Utilities Commission*, 19 Cal.Rptr. 637, 661, 369 P.2d 257, 261, 57 C.2d 373.

## TERRAZZO.

48. Ca.—*Choral Park, Inc. v. Gray*, 202 S.E.2d 548, 550, 130 Ga.App. 125.

Or.—*Dwight v. Donald M. Drake Co.*, 391 F.2d 761, 763, 237 Or. 419.

48. Similarly defined

(2) "Terrazzo" is a mixture of small marble scraps or particles and cement which is first poured and troweled while soft, and when hardened is ground to a level and polished by electrically-powered machinery.—*Palmetto v. Palmetto*, La.App. 113 So.2d 67, 68.

page 609

## TERRIFIC.

54. Similarly defined

"Terrific" is defined as "making one's hair stand."—*Abernathy v. County*, C.A.S.C. 429 P.2d 1170, 1175.

## TERRITORIE

§ 1. Definitions, Nature, and

Library References

Territories—Gen'l. & Spec.

page 611

1. U.S.—*American of Puerto Rico, Inc. v. C.A.N.I.*, 348 F.2d 431, cert. den. 97 S.

U.S. 943, 17 L.Ed.2d 574.

Minn.—*C.I.S. dist. 16 Red Lake Band v. Indians v. State*, 243 N.W.2d 722, 724.

Where used in common word any time "place" or "area."

U.S.—*Morocco Rice v. U.S.* C.A.Puerto R. 66.

8. U.S.—*U.S. Lines Co. v. Rainbow Marine Co.* D.C.N.Y. 221 F.Supp. 811.

§ 3. Acquisition of Territory of States; Property of

Inhabitants

13. U.S.—*U.S. v. Arango*, D.C.Conn. 11

894—*Alcoa S.R. Co. v. Ferro*, D.C.Pa. 259 F.Supp. 197, remd. Ca. 426 F.2d

14. U.S.—*U.S. v. Alaska, Alaska, 95 S.C.*

U.S. 184, 45 L.Ed.2d 108, on remand, 724 F.2d 1376, reh. den. 96 S.Ct. 459, 93 S.

L.Ed.2d 115.

page 612

Other matters relating to the property and other rights of inhabitants of

ries acquired by the United States

been adjudicated.

19-2. U.S.—*Government of the Canal Zone*

C.A.Canal Zone, 502 F.2d 568.

D.C.—*Ralph v. Bell*, Ca. 569 F.2d

U.S.App.D.C. 362, reh. den. 569 F.2d

U.S.App.D.C. 397, app. after remand 643

277 U.S.App.D.C. 73.

Environmental Impact

U.S.—*People of Salpex, By and Through One*

U.S. Dept. of Interior, C.A.Hawaii, 522

cert. den. 95 S.Ct. 1444, 430 U.S. 1028, 43

761.

§ 5. — Laws of Former Sovereign

by

30. Cal.—*City of Los Angeles v. City of San F.*

do, 123 Cal.Rptr. 1, 577 P.2d 1230, 14 C-3

§ 2. — Application of Consti-

tution and Laws of U.S.

States

page 613

34. U.S.—*Peck v. U.S.* C.A.Genn. 212 F.2d

35. U.S.—*Government of Virgin Islands v. D.C.Virgin Islands*, 283 F.Supp. 126.

36. U.S.—*Phyllis Ann Vonnahme and Depea Ann v. U.S.* D.C.Cal. 391 F.Supp. 1314.

Furthermore, federal law does not

ply to land which the government

alienated to the point where jurisdic-

over it had reverted to the territory.

34-5 Puerto Rico

U.S.—*Do Campo v. San Cristobal, Inc.* D.C.Pu

Rico, 609 F.Supp. 42.



its purpose is to determine rightfully the issue on which the judgment was rendered. Accordingly, the principle has been applied that where a state voluntarily places itself in the position of a suitor, it will be held to have laid aside its sovereignty so far as concerns all proper matters of adjudication growing out of the cause of action sued on.<sup>90</sup>

## II. TERRITORIES AND DEPENDENCIES

### A. IN GENERAL

#### § 129. Meaning of "territory."

The word "territory" has come to mean that system of organized government long existing within the United States by which certain regions of the country have been erected into civil governments.<sup>91</sup> Territorial possessions may be defined as all lands acquired by the United States by treaty or purchase which have not become an integral part of the United States, or, as sometimes stated, territory that has not become incorporated into the United States.<sup>92</sup>

#### § 130. Meaning of "dependency."

Strictly speaking, dependencies are subject territories. However, under our law, the terms "territory" and "dependency" have, for all practical purposes, become synonymous. For example, Puerto Rico, before it acquired Commonwealth status,<sup>93</sup> was sometimes spoken of as a dependency and sometimes as a territory.<sup>94</sup> It has also been said that the Federal Government may do for one of its dependencies whatever a state might do for itself or one of its political subdivisions.<sup>95</sup>

#### § 131. Use of "territory" or "possession" in act of Congress.

The term "territory" does not have a fixed and technical meaning which must be accorded it in all circumstances. As used in acts of Congress, it may have different meanings, so that the same political entity may be included in one but excluded in another.<sup>96</sup> The use of the term "territory" by Congress may sometimes be meant to be synonymous only with "place" or "area."<sup>97</sup> Thus the meaning of the word, as used in a federal statute, will depend upon the character and aim of the act. Where Congress intended to exert all the power it possessed in respect to the subject matter, the word will be held to have been used in its most comprehensive sense,<sup>98</sup> and will include even an unorganized territory.<sup>99</sup> However, a statute excepting territories from its

90. *State ex rel. Commissioners of Land Office v. Jones*, 198 Okla 187, 176 P2d 992, 174 ALR 1.

91. *New York ex rel. Kopel v. Bingham*, 211 US 468, 53 L Ed 286, 29 S Ct 190; *Re Lane*, 135 US 443, 34 L Ed 219, 10 S Ct 760.

92. *Rasmussen v. United States*, 197 US 516, 49 L Ed 862, 25 S Ct 514.

93. § 136, *infra*.

94. *Puerto Rico v. Shell Co.* 302 US 253, 32 L Ed 235, 58 S Ct 187.

95. *Cincinnati Soap Co. v. United States*, 301 US 508, 31 L Ed 1122, 57 S Ct 764.

96. *Americana of Puerto Rico, Inc. v. Kaplus* (CA3 NJ) 368 F2d 431, cert den 386 US 943, 17 L Ed 2d 874, 87 S Ct 977.

97. *Moreno Rios v. United States* (CA1 Puerto Rico) 256 F2d 68.

98. *Puerto Rico v. Shell Co.* 302 US 253, 32 L Ed 235, 58 S Ct 167.

99. *United States v. Standard Oil Co.* 404 US 558, 30 L Ed 2d 713, 92 S Ct 661, reh den 405 US 969, 31 L Ed 2d 244, 92 S Ct 1166.



operation has been held to except only territories proper, and not the unorganized public domain.<sup>1</sup>

The word "possession," as used in an act of Congress, has been held not to be a word of art, descriptive of a recognized geographical or governmental entity, but rather a term which should be construed, if reasonably possible, to effectuate the intent of the lawmakers.<sup>2</sup>

### § 132. Nature of territories.

"Territories" of the United States have been regarded as "inchoate states" and as "temporary sovereign governments," organized under the laws of Congress and limited only by the organic law and the Constitution of the United States.<sup>3</sup>

Territorial governments usually have an executive, a legislative, and a judicial system,<sup>4</sup> in the same manner as do the United States and the separate states. They are not, however, in any sense independent governments.<sup>5</sup> During the term of their pupilage as territories, they are mere dependencies of the United States. Their people do not constitute a sovereign power. All political authority exercised therein is derived from the Federal Government.<sup>6</sup> They have no senators in the Congress and no representatives in the lower House of that body, other than delegates with limited functions.<sup>7</sup> Yet organized territories exercise nearly all the powers of government under what are commonly called "organic acts," passed by Congress, conferring such powers on them.<sup>8</sup>

### § 133. "Organized" territories.

An "organized" territory is one in which a civil government has been established by an organic act of Congress.<sup>9</sup> A local legislature has been suggested as the distinguishing feature, but this view has not been accepted, and it is held that neither this, nor any specific form of government, is necessary to the existence of an organized territory.<sup>10</sup>

### § 134. "Incorporated" territories.

A territory is said to be "incorporated" when it has been made a part of the

1. *Re Lane*, 135 US 443, 34 L Ed 219, 10 S Ct 760.

2. *Vermilya-Brown Co. v. Connell*, 335 US 377, 93 L Ed 76, 69 S Ct 140, reh den 336 US 928, 93 L Ed 1089, 69 S Ct 652, holding that, the word, as used in coverage provisions of the Fair Labor Standards Act, applied to a military base in Bermuda leased from the British Government. However, the Act was later amended to apply only to named territories and possessions. See 48 Am Jur 2d, LABOR AND LABOR RELATIONS § 1540.

3. *Harris v. Municipality of St. Thomas & St. John* (DC Virgin Islands) 111 F Supp 63, affd (CA3) 212 F2d 323, Territory ex rel. McMahon v. O'Connor, 5 Dak 397, 41 NW 746.

4. *New York ex rel. Kopel v. Bingham*, 211 US 468, 53 L Ed 286, 29 S Ct 190. *Re Lane*, 135 US 443, 34 L Ed 219, 10 S Ct 760.

As to territorial courts, see 32 Am Jur 2d, FEDERAL PRACTICE AND PROCEDURE §§ 442 et seq.

5. *Re Lane*, 135 US 443, 34 L Ed 219, 10 S Ct 760.

6. *Snow v. United States*, 18 Wall (US) 317, 21 L Ed 784.

7. *New York ex rel. Kopel v. Bingham*, 211 US 468, 53 L Ed 286, 29 S Ct 190; *Re Lane*, 135 US 443, 34 L Ed 219, 10 S Ct 760.

Guam and the Virgin Islands are each represented in the Congress by an elected nonvoting delegate to the House of Representatives. 48 USC § 1711.

8. *Re Lane*, 135 US 443, 34 L Ed 219, 10 S Ct 760.

As to powers, see *infra* § 158.

9. *United States v. Standard Oil Co.* 404 US 558, 30 L Ed 2d 713, 92 S Ct 661, reh den 405 US 969, 31 L Ed 2d 244, 92 S Ct 1166.

10. *Interstate Commerce Com. v. United States*, 224 US 474, 56 L Ed 849, 32 S Ct 556.

United States, usually by congressional action," though, in the case of a territory acquired by treaty, the terms of the treaty of cession may also be important.<sup>11</sup> Incorporation has always been a step, and an important one, leading to statehood.<sup>12</sup> And it has been observed that Congress has been careful to bestow incorporation only on territories destined for statehood.<sup>13</sup>

#### § 135. Current status.

The treaty with the Republic of Panama grants to the United States in perpetuity the use, occupation, and control of the Canal Zone for the construction, operation, maintenance, and protection of the canal, and gives the United States the same rights, power, and authority within the Canal Zone as it would have if it were the sovereign, to the entire exclusion of the exercise of any such sovereign rights, power, and authority, by the Republic of Panama.<sup>14</sup> The Canal Zone government is an independent agency of the United States, administered under the supervision of the President of the United States by a Governor appointed with the advice and consent of the Senate.<sup>15</sup> Congress is the legislative body which acts for the Canal Zone, which has no local legislative body.<sup>17</sup> People residing in the Canal Zone live there at the sufferance of the United States Government.<sup>16</sup> And for most purposes, the laws of the United States treat the Canal Zone as a foreign country.<sup>19</sup> The Canal Zone has a bill of rights, enacted by Congress.<sup>20, 21</sup>

It is provided by statute that, until Congress shall provide for the government of the islands constituting Eastern Samoa, all civil, judicial, and military powers shall be vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct.<sup>22</sup> Although an unorganized territory, Eastern Samoa has been held to be a "territory of the United States" within the meaning of § 3 of the Sherman Anti-Trust Act.<sup>23, 24</sup>

Guam is declared by statute to be an unincorporated territory,<sup>25</sup> though persons born there since its acquisition are citizens of the United States.<sup>26</sup> It has an elected governor<sup>27</sup> and legislature<sup>28</sup> and is represented in Congress by

11. *Rasmussen v United States*, 197 US 516, 49 L Ed 862, 25 S Ct 514, disapproved on other grounds *Williams v Florida*, 399 US 78, 26 L Ed 2d 446, 90 S Ct 1893; *Dorr v United States*, 195 US 138, 49 L Ed 128, 24 S Ct 808; *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

12. *Rasmussen v United States*, 197 US 516, 49 L Ed 862, 25 S Ct 514, disapproved on other grounds *Williams v Florida*, 399 US 78, 26 L Ed 2d 446, 90 S Ct 1893.

As to acquired territory as part of the United States, see § 138, *infra*.

13. *Balzac v Porto Rico*, 258 US 298, 66 L Ed 627, 42 S Ct 343.

14. *Smith v Government of Virgin Islands* (CA3 Virgin Islands) 375 F2d 714.

15. *Wilson v Shaw*, 204 US 24, 51 L Ed 351, 27 S Ct 233.

16. Canal Zone Code title 2, §§ 31, 32.

17. *Luckenbach S.S. Co. v Panama Canal Co.* (DC Canal Zone) 196 F Supp 835, *affd* (CA5) 305 F2d 252.

18. *Lucas v Lucas* (DC Canal Zone) 232 F Supp 466.

As to the citizenship of persons born in the Canal Zone where one parent was a United States citizen, or born in the Republic of Panama of parents one of whom was a citizen employed by the United States or by the Panamas Railroad Company or its successor in title, see 8 USCS § 1403.

19. *Huasteca Petroleum Co. v United States* (DC NY) 14 F2d 495; *Macomber & Whyte Rope Co. v United Fruit Co.* 225 Ill App 286.

20, 21. Canal Zone Code, Title 1 § 31.

22. 48 USCS § 1661(c).

23, 24. *United States v Standard Oil Co.* 404 US 558, 30 L Ed 2d 713, 92 S Ct 661, *reh den* 405 US 969, 31 L Ed 2d 244, 92 S Ct 1166.

25. 48 USCS § 1421a.

26. 8 USCS § 1407.

27. 48 USCS § 1422.

28. 48 USCS § 1423.

an elected nonvoting delegate to the House of Representatives.<sup>29</sup> Congress has enacted a bill of rights for Guam<sup>30</sup> and has extended to it specified provisions of the United States Constitution.<sup>31, 32</sup>

Until Congress shall further provide, all executive, legislative, and judicial authority for the Trust Territory is vested in such persons, and to be exercised in such manner, as the President of the United States shall direct.<sup>33</sup> The Trust Territory is governed by a high commissioner appointed by the President with the advice and consent of the Senate.<sup>34, 35</sup>

The Virgin Islands are an organized, but not an incorporated, territory.<sup>36</sup> In fact, they are declared by statute an unincorporated territory.<sup>37</sup> As such, the Virgin Islands are not a sovereign with a separate entity from that of the United States.<sup>38</sup> But the Revised Organic Act of 1954<sup>39</sup> was intended to grant a greater degree of autonomy, economic as well as political, to the people of the Virgin Islands,<sup>40</sup> and has given the territory attributes of autonomy similar to those of a sovereign government or state.<sup>41</sup> The Virgin Islands are governed by an elected legislature<sup>42</sup> and governor<sup>43</sup> and are represented in Congress by an elected nonvoting delegate to the House of Representatives.<sup>44</sup> Congress has enacted a bill of rights for the Virgin Islands and has extended to the territory specified provisions of the Constitution of the United States.<sup>45</sup> And this bill of rights, though conferred by act of Congress, has been held to express the congressional intention to make the Federal Constitution applicable to the Virgin Islands to the fullest extent possible consistent with its status as a territory.<sup>46</sup> Persons born in the Virgin Islands subsequent to their acquisition are citizens of the United States.<sup>47</sup>

#### § 136. —Commonwealth of Puerto Rico.

Although Puerto Rico<sup>48</sup> was formerly a totally organized but unincorporated territory, it now enjoys a very different status.<sup>49</sup> Under a compact, proposed by the Congress<sup>50</sup> and ratified by referendum vote of the people of Puerto Rico,<sup>51</sup> Puerto Rico has drafted and adopted its own constitution, creating a "commonwealth," which, however, is expressly declared to be "within our union

29. 48 USCS § 1711.

30. 48 USCS § 1421b.

31, 32. 48 USCS § 1421b(u).

33. 48 USCS § 1681.

34, 35. 48 USCS § 1681a.

36. *Government of Virgin Islands v Bodle* (CA3 Virgin Islands) 427 F2d 532; *Smith v Government of Virgin Islands* (CA3 Virgin Islands) 375 F2d 714.

37. 48 USCS § 1541(a).

38. *Harris v United States* (DC Virgin Islands) 125 F Supp 536, *aff'd* (CA3) 235 F2d 110.

39. 48 USCS §§ 1541 *et seq.*

40. *Virgo Corp. v Paiwonsky* (CA3 Virgin Islands) 384 F2d 569, *cert den* 390 US 1041, 20 L Ed 2d 303, 88 S Ct 1633, *reh den* 392 US 917, 20 L Ed 2d 1379, 88 S Ct 2053.

41. *Re Estate of Hooper* (CA3 Virgin Islands)

359 F2d 569, *cert den* 385 US 903, 17 L Ed 2d 133, 87 S Ct 206.

42. 48 USCS § 1571.

43. 48 USCS § 1591.

44. 48 USCS § 1711.

45. 48 USCS § 1561.

46. *Re Brown* (CA3 Virgin Islands) 439 F2d 47.

47. 8 USCS § 1406 (extending citizenship also to former Danish citizens who resided in the Virgin Islands at the time of their acquisition and who did not take the necessary steps to preserve Danish citizenship).

48. See 48 USCS §§ 731 *et seq.*

49. *Americana of Puerto Rico, Inc. v Kaplus* (CA3 NJ) 368 F2d 431, *cert den* 386 US 943, 17 L Ed 2d 874, 87 S Ct 977.

50. 48 USCS § 731b.

51. 48 USCS § 731c.

with the United States of America."<sup>62</sup> Although the Puerto Rican constitution required congressional approval, it is not an act of Congress.<sup>63</sup> Hence the government of the Commonwealth, unlike that of other territories, derives its powers not only from the consent of Congress, but also from the consent of the people of Puerto Rico.<sup>64</sup> And it has been said that Puerto Rico, under the terms of the compact, is sovereign over matters not ruled by the Constitution of the United States.<sup>65</sup> Accordingly, some courts have taken the view that Puerto Rico, under its commonwealth constitution, is no longer a possession, dependency, or territory of the United States.<sup>66</sup> Although Puerto Rico has not become a state in the Federal Union, it would seem to have become a "state" within a common and accepted meaning of the term. Accordingly, it has been suggested by a Court of Appeals<sup>67</sup> and held by a District Court that Puerto Rico is a "state" within the meaning of the statute<sup>68</sup> requiring a three-judge court when an injunction is sought against enforcement of a "state" statute on the ground of unconstitutionality.<sup>69</sup> Other courts, however, take the view that the Commonwealth of Puerto Rico continues to be a political subdivision of the United States.<sup>70</sup> And federal statutes using the term "territory" may still be applicable.<sup>71</sup> Puerto Rico, despite Commonwealth status, is still a "territory" within the meaning of Article 4, § 3, of the Constitution, giving Congress power to make rules and regulations for the territories.<sup>72</sup> And both before and after the adoption of its Commonwealth constitution, Puerto Rico was a territory of the United States within the meaning of the statute defining diversity jurisdiction.<sup>73</sup> It has been said that the "compact" legislation was at most regulatory, and did not change Puerto Rico's fundamental political relationship to the United States.<sup>74</sup> It may be noted that the statute defining the legislative authority of the Puerto Rican legislature has not been repealed.<sup>75</sup> And statutory laws of the United States, not locally inapplicable, have the same force and effect in Puerto Rico as in the United States, except as otherwise provided.<sup>76</sup> Persons born in Puerto Rico after the acquisition date are citizens of the United States.<sup>77</sup> And even though the constitution of Puerto Rico contains its own due process clause, citizens of Puerto Rico, as citizens of the United States, are entitled to invoke against the Commonwealth the fundamental due process guaranty contained in the Federal Constitution, which guaranty can still be vindicated in the federal courts, and ultimately by

52. 48 USCS § 731d (note).

53. *Figueroa v Puerto Rico* (CA1 Puerto Rico) 232 F2d 615.

54. *Americana of Puerto Rico, Inc. v Kaplus* (CA3 NJ) 368 F2d 431, cert den 386 US 943, 17 L Ed 2d 874, 87 S Ct 977.

55. *Mora v Mejias* (DC Puerto Rico) 115 F Supp 310.

56. *Cosentino v International Longshoremen's Assn.* (DC Puerto Rico) 126 F Supp 420. *Mora v Torres* (DC Puerto Rico) 113 F Supp 309, affd (CA1) 206 F2d 377.

57. *Mora v Mejias* (CA1 Puerto Rico) 206 F2d 377.

58. 28 USCS § 2281.

59. *Mora v Mejias* (DC Puerto Rico) 115 F Supp 610.

60. *Arbona v Kenton* (DC NY) 126 F Supp 366.

61. *Moreno Rios v United States* (CA1 Puerto Rico) 256 F2d 68 (stating that, when Congress uses the term "territory" it does not necessarily have in mind the niceties of language of a political scientist who might say that Puerto Rico, under its commonwealth status, had ceased to be an unincorporated territory of the United States).

62. *Americana of Puerto Rico, Inc. v Kaplus* (CA3 NJ) 368 F2d 431, cert den 386 US 943, 17 L Ed 2d 874, 87 S Ct 977.

63. *Deures v Lions Bldg. Corp.* (CA7 Ill) 234 F2d 596.

64. *Nestle Products, Inc. v United States*, 64 Cust Ct 158, 310 F Supp 792.

65. 48 USCS § 821.

66. 48 USCS § 734.

67. 8 USCS § 1402.



the Supreme Court of the United States.<sup>68</sup> The rights, privileges, and immunities of citizens of the United States are required to be respected in Puerto Rico to the same extent as though Puerto Rico were a state and subject to the provisions of Article 4, § 2, of the Constitution.<sup>69</sup>

#### B. EXTENSION OF TERRITORIAL LIMITS

##### § 137. Generally.

Under the general principles of the law of nations, every government which is sovereign within its sphere of action possesses as an inherent attribute the power to acquire territory by discovery<sup>70</sup> or by conquest,<sup>71</sup> as well as by agreement or treaty.<sup>72</sup> The territory acquired by direct cession as the result of war is acquired as absolutely as if the annexation were made, as in the case of Texas and Hawaii, by an act of Congress.<sup>73</sup>

Wherever a government acquires territory as a result of any of the modes above stated, the relation of the territory to the new government is to be determined by the acquiring power, in the absence of stipulations upon the subject.<sup>74</sup> A treaty ceding territory is no less perfect because of the omission from that treaty of some of the technical terms used in ordinary conveyances of real estate, or of failure to define the exact boundary of the territory, where the description is sufficient for identification and the boundaries have been practically identified by the concurrent action of the two nations alone interested.<sup>75</sup>

##### § 138. Acquired territory as part of the United States.

Whether or not acquired territory becomes an integral part of the United States depends upon the instrument by which it is acquired.<sup>76</sup> There is no

68. *Mora v Mejias* (CA1 Puerto Rico) 206 F2d 377.

69. 48 USCS § 797.

70. *Dorr v United States*, 195 US 138, 49 L Ed 128, 24 S Ct 808; *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770; *De Lima v Bidwell*, 182 US 1, 45 L Ed 1041, 21 S Ct 743; *Church of Jesus Christ of L. D. S. v United States*, 136 US 1, 34 L Ed 478, 10 S Ct 792; *American Ins. Co. v 356 Bales of Cotton*, 1 Pet (US) 511, 7 L Ed 242.

71. *Dorr v United States*, 195 US 138, 49 L Ed 128, 24 S Ct 808; *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770; *De Lima v Bidwell*, 182 US 1, 45 L Ed 1041, 21 S Ct 743; *Church of Jesus Christ of L. D. S. v United States*, 136 US 1, 34 L Ed 478, 10 S Ct 792; *American Ins. Co. v 356 Bales of Cotton*, 1 Pet (US) 511, 7 L Ed 242.

72. *Hooven & Allison Co. v Evatt*, 324 US 652, 89 L Ed 1252, 65 S Ct 870, reh den 325 US 892, 89 L Ed 2004, 65 S Ct 1198; *Wilson v Shaw*, 204 US 24, 51 L Ed 351, 27 S Ct 233; *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

Generally, as to acquisition of territory by the United States, see UNITED STATES (1st ed § 77, 78).

For principles of international law as to the acquisition and transfer of territory, see 45 Am Jur 2d, INTERNATIONAL LAW §§ 27, 28.

73. *De Lima v Bidwell*, 182 US 1, 45 L Ed 1041, 21 S Ct 743.

74. *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

75. *Wilson v Shaw*, 204 US 24, 51 L Ed 351, 27 S Ct 233.

76. In the absence of other and countervailing evidence, a law of Congress, or a provision in a treaty acquiring territory, declaring an intention to confer political and civil rights on the inhabitants of the new lands as American citizens, may be properly interpreted to mean an incorporation of it into the Union. *Balzac v Porto Rico*, 258 US 298, 66 L Ed 627, 42 S Ct 343.

Places subject to the jurisdiction of the United States, but which are not incorporated into it, and hence are not within the United States in the complete sense of those words, are recognized by the provision of the Thirteenth Amendment to the United States Constitution, prohibiting slavery within the United States "or any place subject to their jurisdiction." (Per Justices White, Shiras, and McKenna.) *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

doubt that the government of the United States has the power to acquire and hold territory without immediately incorporating it into the United States.<sup>77</sup> For example, the Philippine Islands never became an integral part of the United States. The treaty of cession provided that the civil rights and political status of the native inhabitants of the islands should be determined by Congress, and the legislation on the subject showed that Congress had consistently refrained from incorporating the Philippines into the United States.<sup>78</sup> Likewise, the island of Puerto Rico by the treaty of cession became territory appurtenant to the United States, but not a part of the United States, within the revenue clauses of the Constitution, such as Article I, § 8, requiring duties, imposts, and excises to be uniform "throughout the United States."<sup>79</sup> Alaska, on the other hand, was made a part of the United States by virtue of the treaty of cession, which provided that the inhabitants of the ceded territory should be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and should be maintained and protected in the free enjoyment of their liberty, property, and religion.<sup>80</sup> Accordingly, the Federal Constitution, so far as applicable, was controlling upon Congress when legislating in respect to the territory of Alaska.<sup>81</sup>

### § 139. Territory acquired by treaty as foreign country.

A foreign country is defined to be one exclusively within the sovereignty of a foreign nation, and without the sovereignty of the United States.<sup>82</sup> Although for all purposes territory acquired by the United States has not been fully incorporated into the United States, it obviously is not foreign territory,<sup>83</sup> and no act of Congress is necessary to make acquired territory domestic, if once it has been ceded to the United States.<sup>84</sup> Thus territory ceded to the United States ceases to be foreign within the meaning of the customs laws.<sup>85</sup> Territory ceded to the United States comes under the complete and absolute sovereignty and dominion of the United States, and so becomes territory of the United States over which civil government can be established. The result is the same although there is no stipulation that the native inhabitants should be incorporated into the body politic, and none securing to them the right to choose their nationality. Their allegiance becomes due to the United States, and they become entitled to its protection.<sup>86</sup>

The Philippines were not simply occupied, but acquired, and, having been granted and delivered to the United States by their former master, were no longer under the sovereignty of any foreign nation.<sup>87</sup> Upon the ratification of the treaty of peace with Spain, Puerto Rico and the Philippine Islands ceased

77. *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

78. *Rasmussen v United States*, 197 US 516, 49 L Ed 862, 25 S Ct 514; *Dorr v United States*, 195 US 138, 49 L Ed 128, 24 S Ct 808.

79. *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

80. *Interstate Commerce Com. v United States*, 224 US 474, 56 L Ed 849, 32 S Ct 556; *Rasmussen v United States*, 197 US 516, 49 L Ed 862, 25 S Ct 514; *Binns v United States*, 194 US 486, 48 L Ed 1087, 24 S Ct 816; *The Coquitlam v United States*, 163 US 346, 41 L Ed 184, 16 S Ct 1117.

81. *Alaska v Troy*, 258 US 101, 66 L Ed 487, 42 S Ct 241.

82. *De Lima v Bidwell*, 182 US 1, 45 L Ed 1041, 21 S Ct 743.

83. *American R. Co. v Didricksen*, 227 US 145, 57 L Ed 456, 33 S Ct 224; *Gonzales v Williams*, 192 US 1, 48 L Ed 517, 24 S Ct 177; *Goetze v United States*, 182 US 221, 45 L Ed 1065, 21 S Ct 742.

84. *Fourteen Diamond Rings v United States*, 183 US 176, 46 L Ed 138, 22 S Ct 59.

85. See 21 Am Jur 2d, CUSTOMS DUTIES AND IMPORT REGULATIONS § 3.

86. *Fourteen Diamond Rings v United States*, 183 US 176, 46 L Ed 138, 22 S Ct 59.

87. *Fourteen Diamond Rings v United States*, 183 US 176, 46 L Ed 138, 22 S Ct 59.

its amendments.<sup>32</sup> In common with all the other legislative powers of Congress, the power to legislate for the territories finds limits in the express prohibitions on Congress not to do certain things; in the exercise of the legislative power, Congress cannot pass an ex post facto law or bill of attainder; and so in respect to each of the other prohibitions contained in the Constitution.<sup>33</sup> Neither can Congress deprive the inhabitants of a territory of property or liberty without due process of law.<sup>34</sup> Indeed, it has been said that there cannot exist under the American flag any governmental authority untrammelled by the requirements of due process of law.<sup>35</sup>

Even if the people of our insular possessions are regarded as aliens, they are entitled, under the principles of the Constitution, to be protected in life, liberty, and property, and they are not subject to an unrestrained power on the part of Congress to deal with them upon the theory that they have no rights which it is bound to respect.<sup>36</sup>

Congress cannot enact laws applicable to territories of the United States inconsistent with the Federal Constitution, once that Constitution has been formally extended to them.<sup>37</sup> And where Congress has extended the Constitution to a territory in its organic act, it cannot thereafter withdraw the provision.<sup>38</sup> Their political rights, however, are franchises which they hold as privileges in the legislative discretion of the Congress of the United States.<sup>39</sup> And the fact that the territories are not represented in Congress does not preclude their taxation by Congress.<sup>40</sup>

#### § 146. Application of constitutional provisions—to incorporated territories.

Congress has usually extended the provisions of the Constitution to incorporated territories.<sup>41</sup> But on the question as to whether the Constitution extends to such territories of its own force, the decisions of the Supreme

32. *Dorr v United States*, 195 US 138, 49 L Ed 128, 24 S Ct 808; *Hawaii v Mankichi*, 190 US 197, 47 L Ed 1016, 23 S Ct 787; *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770; *Church of Jesus Christ of L. D. S. v United States*, 136 US 1, 34 L Ed 478, 10 S Ct 792.

33. *Dorr v United States*, 195 US 138, 49 L Ed 128, 24 S Ct 808; *Scott v Sandford*, 19 How (US) 393, 15 L Ed 691.

34. *McFadden v Blocker*, 3 Indian Terr 224, 54 SW 873.

The provisions of the Philippine Independence Act of March 24, 1934, repealing all laws relating to the previously existing government and its administration, cannot operate retroactively to deprive one of rights vested before its adoption. *Asiatic Petroleum Co. v Insular Collector of Customs*, 297 US 666, 80 L Ed 967, 56 S Ct 651.

35. *Mora v Mejias* (CA1 Puerto Rico) 206 F2d 377.

36. *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

37. *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

38. *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770; *Thompson v Utah*, 170 US 343, 42 L Ed 1061, 18 S Ct 620; *Springville v*

*Thomas*, 166 US 707, 41 L Ed 1172, 17 S Ct 717; *American Pub. Co. v Fisher*, 166 US 464, 41 L Ed 1079, 17 S Ct 618.

For application of this provision to the right to trial by jury, see *infra* § 148.

39. *Murphy v Ramsey*, 114 US 15, 29 L Ed 47, 5 S Ct 747.

Under the Spanish treaty by which Florida was ceded to the United States, its inhabitants were admitted to the enjoyment of the privileges, rights, and immunities of the citizens of the United States, but did not acquire a right to share in the government or in any political power until Florida became a state. *American Ins. Co. v 356 Bales of Cotton*, 1 Pet (US) 511, 7 L Ed 242.

40. *Loughborough v Blake*, 18 US 317, 5 L Ed 98.

41. *Rasmussen v United States*, 197 US 516, 49 L Ed 862, 25 S Ct 514; *Capital Traction Co. v Hof*, 174 US 1, 43 L Ed 873, 19 S Ct 580.

Where the organic act provides that the Constitution shall have the same force and effect in the territory as elsewhere in the United States, civilians in the territory are entitled to the constitutional guaranty of a fair trial to the same extent as are those who live in the states of the Union. *Duncan v Kahanamoka*, 327 US 304, 90 L Ed 688, 66 S Ct 606.

*ju*  
 Court have not been altogether harmonious. Some of them are based on the theory that the Constitution does not apply to the territories without legislation. Other cases, arising from territories where such legislation is in effect, contain language which would justify the inference that such legislation was unnecessary, and that the Constitution took effect immediately on the cession of the territory to the United States.<sup>42</sup> According to the latter view, where a territory is part of the United States, its inhabitants are entitled to the guaranties of the Constitution, and legislation purporting to extend them is considered as merely declaratory.<sup>43</sup>

✓  
 § 147. —To unincorporated territories.

✓  
 Since unincorporated territories are those which have not been made an integral part of the United States,<sup>44</sup> Congress, in exercising legislative power over them, is uncontrolled by many of the provisions of the Constitution.<sup>45</sup> And in general, the guaranties of the Constitution, save as they are limitations upon the exercise of executive and legislative power, when exerted for or over insular possessions of the United States, extend to them only as Congress, in the exercise of its legislative power over territory belonging to the United States, has made those guaranties applicable.<sup>46</sup> Thus, the Fifth Amendment requirement of grand jury indictment in the case of infamous crimes,<sup>47</sup> and the guaranties of the Sixth and Seventh Amendments as to trial by jury,<sup>48</sup> are not applicable in an unincorporated territory, unless made so by congressional action.

*see also  
at  
section*  
 Territory which is held to be appurtenant to and not a part of the United States is outside the restrictions applicable to interstate commerce, and the power of Congress, when affirmatively exercised over a territory, situated as supposed, is uncontrolled by the provisions of the Constitution in respect to national taxation.<sup>49</sup>

Until Congress shall see fit to incorporate territory ceded by treaty into the United States, the territory is to be governed under the power existing in Congress to make laws for such territories, and subject to such constitutional restrictions upon the powers of that body as are applicable to the situation.<sup>50</sup>

The organic law enacted by Congress takes the place of a constitution, as

42. *Rasmussen v. United States*, 197 US 516, 49 L Ed 862, 25 S Ct 514; *Downes v. Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

43. *Rasmussen v. United States*, 197 US 516, 49 L Ed 862, 25 S Ct 514, disapproved on other grounds *Williams v. Florida*, 399 US 78, 26 L Ed 2d 446, 90 S Ct 1893; *Capital Traction Co. v. Hof*, 174 US 1, 45 L Ed 873, 19 S Ct 580.

44. § 134, *supra*.

45. *Hooven & Allison Co. v. Evatt*, 324 US 652, 89 L Ed 1252, 65 S Ct 870, reh den 325 US 892, 89 L Ed 2004, 65 S Ct 1198; *Public Utility Commr. v. Ynchausti*, 251 US 401, 64 L Ed 327, 40 S Ct 277; *Fourteen Diamonds Rings v. United States*, 183 US 176, 46 L Ed 158, 22 S Ct 59; *Downes v. Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

46. *Hooven & Allison Co. v. Evatt*, 324 US 652, 89 L Ed 1252, 65 S Ct 870, reh den 325

US 892, 39 L Ed 2004, 65 S Ct 1198; *Guerrido v. Alcoa S.S. Co.* (CA1 Puerto Rico) 234 F2d 349.

For examples of legislation extending specific provisions of the Constitution to an unincorporated territory, see 48 USCS § 1421b (Guam), 48 USCS § 1561 (Virgin Islands).

47. *Rivera v. Government of the Virgin Islands* (CA9 Virgin Islands) 375 F2d 988; *Hatchett v. Guam* (CA9 Guam) 212 F2d 767, cert dism 348 US 801, 99 L Ed 633, 75 S Ct 17; *Pugh v. United States* (CA9 Guam) 212 F2d 761.

48. § 148, *infra*.

49. *Fourteen Diamond Rings v. United States*, 183 US 176, 46 L Ed 158, 22 S Ct 59; *De Lima v. Bidwell*, 182 US 1, 45 L Ed 1041, 21 S Ct 743.

50. *Dorr v. United States*, 195 US 138, 49 L Ed 128, 24 S Ct 808.



the fundamental law of an unincorporated territory.<sup>51</sup> And Congress, as a part of that organic law, usually supplies the territory with a bill of rights.<sup>52</sup> A claim of violation of such a territorial bill of rights amounts in substance to a claim of unconstitutionality.<sup>53</sup> However, though the organic law is obligatory on and binds the territorial authorities, Congress is supreme, and, with respect to this department of its governmental authority, has all the powers of the people of the United States, except such as have been expressly or by implication reserved in the prohibitions of the Constitution.<sup>54</sup>

#### § 148. —Right to trial by jury.

The provisions of the Sixth and Seventh Amendments to the Federal Constitution securing the right of trial by jury apply to judicial proceedings in the incorporated territories of the United States.<sup>55</sup> In such cases Congress has no power to enact legislation which would deprive the people of the territory of the right of jury trial thus secured.<sup>56</sup> The jury thus referred to is the jury constituted as it was at common law, of 12 persons, neither more nor less.<sup>57</sup> It has been held uniformly that an act of a territorial legislature providing for majority verdicts is in contravention of the Seventh Amendment, providing that in all common-law suits where the amount involved exceeds \$20 the right of trial by jury shall be preserved.<sup>58</sup>

The provisions of the Federal Constitution for jury trials in civil and criminal cases do not apply to territories which have not been incorporated into the Union, however, in the absence of congressional enactment.<sup>59</sup> From this it must necessarily follow that until Congress does act by extending the

51. *First Nat. Bank v County of Yankton*, 101 US 129, 25 L Ed 1046..

52. § 135, *supra*.

53. *Re Brown* (CA3 Virgin Islands) 439 F2d 47.

54. *First Nat. Bank v County of Yankton*, 101 US 129, 25 L Ed 1046.

55. *Rasmussen v United States*, 197 US 516, 49 L Ed 862, 25 S Ct 514, disapproved on other grounds *Williams v Florida*, 399 US 78, 26 L Ed 2d 446, 90 S Ct 1893; *Black v Jackson*, 177 US 349, 44 L Ed 801, 20 S Ct 648; *Thompson v Utah*, 170 US 343, 42 L Ed 1061, 18 S Ct 620; *Kennon v Gilmer*, 131 US 22, 35 L Ed 110, 9 S Ct 696; *Callan v Wilson*, 127 US 540, 32 L Ed 223, 8 S Ct 1301; *Reynolds v United States*, 98 US 145, 25 L Ed 244; *Queenan v Territory*, 11 Okla 261, 71 P 218, affd 190 US 548, 47 L Ed 1175, 23 S Ct 762; *Garnsey v State*, 4 Okla Crim 547, 112 P 24.

56. *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770; *Thompson v Utah*, 170 US 343, 42 L Ed 1061, 18 S Ct 620; *Springville v Thomas*, 166 US 707, 41 L Ed 1172, 17 S Ct 717; *American Pub. Co. v Fisher*, 166 US 464, 41 L Ed 1079, 17 S Ct 618.

57. *Gurvich v United States*, 198 US 581, 49 L Ed 1172, 25 S Ct 803 (Alaska); *Rasmussen v United States*, 197 US 516, 49 L Ed 862, 25 S Ct 514 (Alaska); *Queenan v Territory*, 11 Okla 261, 71 P 218, affd 190 US 548, 47 L Ed 1175, 23 S Ct 762.

58. *Parsons v Pratt* (US) 42 L Ed 1214, 18 S Ct 944; *Springville v Thomas*, 166 US 707, 41 L Ed 1172, 17 S Ct 717; *American Publishing Co. v Fisher*, 166 US 464, 41 L Ed 1079, 17 S Ct 618; *Providence Gold-Min Co. v Burke*, 6 Ariz 323, 57 P 641; *Bradford v Territory*, 1 Okla 366, 34 P 66.

59. *Balzac v Porto Rico*, 258 US 298, 66 L Ed 627, 42 S Ct 343 (Puerto Rico); *Hawkins v Bleakly*, 245 US 210, 61 L Ed 678, 37 S Ct 255; *Dowdell v United States*, 221 US 325, 55 L Ed 753, 31 S Ct 590 (Philippine Islands); *Perez v Fernandez*, 202 US 80, 50 L Ed 942, 26 S Ct 561 (Puerto Rico); *Dorr v United States*, 195 US 138, 49 L Ed 128, 24 S Ct 608 (Philippine Islands); *Hawaii v Mankichi*, 190 US 197, 47 L Ed 1016, 23 S Ct 787 (Hawaii); *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770 (Puerto Rico).

In the Virgin Islands, jury trial is provided by the Revised Organic Act. See 48 USCS § 1616.

The people of Puerto Rico were not required to include a provision for jury trial in their bill of rights, and are free to withdraw it, without leave of Congress, by amending their constitution. *Figueroa v Puerto Rico* (CA1 Puerto Rico) 252 F2d 615.

The law of a territorial legislature prescribing the mode of obtaining panels of jurors and challenges to them is obligatory upon the District Courts of the territory. *Miles v United States*, 103 US 304, 26 L Ed 481.

right to jury trial to newly acquired territory, the prevailing system of judicial procedure is applicable and controlling.<sup>60</sup>

#### § 149. Government of territory acquired by conquest.

The civil government of the United States cannot extend immediately and of its own force over territory acquired by war, even when possession is confirmed by treaty, but such territory must necessarily, in the first instance, be governed by the military power under the control of the President as commander in chief, until civil government is put in operation by the action of the appropriate political department, at such time and in such degree as that department may determine.<sup>61</sup> During the interim between the conquest of a country by military forces and the cession thereof to the conqueror by treaty, the administration of the government of such conquered country lies with the military power.<sup>62</sup> It has been said that a temporary government which is not subject to all the restrictions of the Constitution may be established for conquered territory by Congress, if it is not ready to construct a complete government for such territory.<sup>63</sup>

The acts of a temporary government of occupied territory which are illegal may, where there are no questions of intervening rights involved, be ratified by Congress and made legal.<sup>64</sup>

#### § 150. Right of municipal sovereignty in newly acquired territory.

The United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory of which any of the new states were formed, except for temporary purposes, and to execute the trusts created by the term of the cession. When accepting the cession of territory, the United States takes upon itself the trust to hold the municipal eminent domain for the new states, and to invest them with it, to the same extent, in all respects, that it was held by the states ceding the territories.<sup>65</sup> Thus, it is held that on the acquisition of a territory by the United States, the title and dominion of lands under tidewaters pass to the United States, for the benefit of the whole people, and in trust for the several states to be ultimately created out of the territory.<sup>66</sup> It results from these principles that the right of the United States to the public lands, and the power of Congress to make all needful rules and regulations for the sale and disposition thereof, confer no power to grant land in a territory which was below usual high-water mark at the time the territory was admitted into the Union.<sup>67</sup> And the grants by Congress of portions of the public lands within a territory to settlers thereon, although bordering on or bounded by navigable waters, convey, of their own force, no title or right below high-water mark, and do not impair the title and dominion of the future state when created.<sup>68</sup>

60. *Hawaii v Mankichi*, 190 US 197, 47 L Ed 1016, 23 S Ct 787.

61. *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770; *Cross v Harrison*, 16 How (US) 164, 14 L Ed 889.

62. *Dooley v United States*, 182 US 222, 45 L Ed 1074, 21 S Ct 762. See *WARR* (1st ed § 205).

63. *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770 (per Justice Gray).

64. *United States v Heinszen*, 206 US 370, 51 L Ed 1098, 27 S Ct 742.

65. *Pollard v Hagan*, 3 How (US) 212, 11 L Ed 565.

66. *Shively v Bowlby*, 152 US 1, 38 L Ed 331, 14 S Ct 548.

67. *Pollard v Hagan*, 3 How (US) 212, 11 L Ed 565.

68. *Shively v Bowlby*, 152 US 1, 38 L Ed 331, 14 S Ct 548.

## § 135

## STATES, TERRITORIES, AND DEPENDENCIES

The Federated States of Micronesia and the Republic of the Marshall Islands were established by a "Compact of Free Association" in 1986 contained in PL 99-239 (see 48 USCS § 1681 note).

The Commonwealth of the Northern Mariana Islands was established by covenant in 1976 by PL 94-341, 90 Stat. 263 (see 48 USCS § 1681 note).

**Case authorities:**

Phrase "majority of the votes cast," in provision of 48 USCS § 1591 dealing with election of Governor and Lieutenant Governor of Virgin Islands, requires that ballots entirely blank and ballots that are blank as to Governor and Lieutenant Governor not be counted. *Todman v Boschulte* (1982, CA3 VI) 694 F2d 939.

Executive order creating Guam Visitors Bureau as non-profit organization did not establish bureau as government entity since governor lacks independent authority to create bureau as governmental instrumentality; accordingly, employee of bureau is not public employee afforded civil rights protection from patronage dismissals. *Laguna v Guam Visitors Bureau* (1984, CA9 Guam) 725 F2d 519.

**§ 136. —Commonwealth of Puerto Rico**

**Case authorities:**

A Puerto Rico statute which prohibits an alien's engaging in the private practice of engineering deprives the alien of "any rights, privileges, or immunities secured by the Constitution and laws," within the meaning of the Civil Rights Act of 1871 (42 USCS § 1983), providing a private right of action for violation of federal rights. *Examining Board of Engineers, Architects & Surveyors v De Otero* (US) 49 L Ed 2d 65, 96 S Ct 2264.

See *Torres v Puerto Rico* (1979, US) 61 L Ed 2d 1, 99 S Ct 2425, § 146.

Congress, which is empowered under the territory clause of the Federal Constitution (Art IV, § 3, cl 2) to "make all needful Rules and Regulations respecting the Territory . . . belonging to the United States," may treat Puerto Rico differently from the states so long as there is a rational basis for its action. *Harris v Rosario* (1980) 446 US 651, 64 L Ed 2d 587, 100 S Ct 1929.

While creation of Commonwealth granted Puerto Rico authority over its own local affairs, Congress maintained similar powers over Puerto Rico as it possessed over federal states; Congressional intent behind approval of Puerto Rico Constitution was that Constitution would operate to organize local government, and its adoption would in no way alter applicability of United States laws and federal jurisdiction in Puerto Rico. *United States v Quinones* (1985, CA1 Puerto Rico) 758 F2d 40.

Although Puerto Rico has a unique status in our federal system, the test as to whether federal law pre-empt a Puerto Rican statute and regulations governing the prices and profit margins of gasoline wholesalers is the same as the test under the supremacy clause of the Federal Constitution (Art VI, cl 2) for pre-emption of the law of a state. *Puerto Rico Dept. of Consumer Affairs v Isla Petroleum Corp.* (1988, US) 99 L Ed 2d 582, 108 S Ct 1350.

**§ 140. Inhabitants of territory as nationals**

**Case authorities:**

Northern Mariana Islands children who were adults when their fathers became U.S. citizens pursuant to Covenant did not automatically become citizens themselves since clear implication of Covenant's definition of domicile is that adult children of citizens can qualify only on basis of their own domicile and not that of their parents. *Hernandez v Baker* (1991, CA9 N Mariana Islands) 936 F2d 426, 91 CDOS 4595, 91 Daily Journal DAR 6967.

**§ 142. Generally**

**Case authorities:**

The Federal Constitution's property clause (Art IV, § 3, cl 2) grants Congress plenary power to regulate and dispose of land within the territories; Congress also has the power to acquire land in aid of other powers conferred upon Congress by the Constitution. *Utah Div. of State Lands v United States* (1987) 482 US 195, 96 L Ed 2d 162, 107 S Ct 2318, on remand (CA10) 846 F2d 613.

**§ 145. Limitations on power**

**Case authorities:**

Federal District Court lacked subject matter jurisdiction of action to quiet title to leasehold interest in real property located in Commonwealth of Northern Mariana Islands since resolution of claim turned on interpretation of CNMI common law and CNMI constitution. *Yokono v Mafnas* (1992, CA9 N Mariana Islands) 973 F2d 803, 92 CDOS 7368, 92 Daily Journal DAR 12006.

**§ 146. Application of constitutional provisions—to incorporated territories**

**Case authorities:**

The constitutional requirements of the Fourth Amendment apply to the Commonwealth of Puerto Rico, both Congress' implicit determinations that the provisions may be implemented and long experience establishing that the Fourth Amendment's restrictions on searches and seizures may be applied without danger to national interests and without risk of unfairness. *Torres v Puerto Rico* (1979, US) 61 L Ed 2d 1, 99 S Ct 2425.

The search by Puerto Rico police of the luggage of a person arriving in the Commonwealth of Puerto Rico from the United States—the police acting without a warrant and without probable cause for a belief that incriminating evidence will be found, in accord with a Puerto Rico statute authorizing such searches of the luggage of any person arriving in Puerto Rico from the United States—does not satisfy the requirements of the Fourth Amendment, there being no exception from the Fourth Amendment warrant and probable cause requirements for the statute on the basis of an analogy to customs searches at a functional equivalent to the international border of the United States, or an analogy to state inspections designed to implement health and safety legislation. *Torres v Puerto Rico* (1979, US) 61 L Ed 2d 1, 99 S Ct 2425.



## STATES, TERRITORIES, AND DEPENDENCIES

§ 161

The Federal Constitution's privilege and immunities clause (Art IV, § 2, cl 1) is applicable to the Virgin Islands territory through a provision (48 USCS § 1561) of the Revised Organic Act of 1954. *Barnard v Thorstenn* (1989, US) 103 L Ed 2d 559, 109 S Ct 1294.

#### § 147. —To incorporated territories

##### Case authorities:

See *Torres v Puerto Rico* (1979, US) 61 L Ed 2d 1, 99 S Ct 2425, § 146.

Defendants tried and convicted under federal criminal statute before limited-tenured judge in District Court of Virgin Islands were not denied constitutional right to life-tenured judge under Art III, § 1 of United States Constitution, since, outside geographical limits of states which are members of federal union, tenure and compensation guarantees of Art III, § 1 are matters of legislative grace rather than constitutional right. *United States v Canel* (1983, CA3 VI) 708 F2d 894.

Guam is unincorporated territory enjoying only such powers as may be delegated to it by Congress and is therefore in essence instrumentality of federal government; negative implications of commerce clause of constitution, designed to preserve congressional authority, cannot limit Guamanian government, which is creation of Congress itself. *Sakamoto v Duty Free Shoppers, Ltd.* (1985, CA9 Guam) 764 F2d 1285.

#### § 151. Generally

##### Case authorities:

Title to the bed of Utah Lake—a navigable body of water located within Utah—passed to the state of Utah under the equal footing doctrine as of Utah's admission to the Union in 1896, because, even if a preadmission federal reservation of the lake bed could defeat Utah's claim, it was not accomplished where (1) provisions of the Sundry Appropriations Act of 1888 (25 Stat 505) (later repealed), which permitted the reservation of federal land for reservoir purposes, failed to make sufficiently clear a congressional intent to include the bed of Utah Lake within such a reservation; (2) there is no clear demonstration that Congress—following certain federal actions with respect to Utah Lake in 1889—intended to ratify any such reservation of the lake bed in a portion of the Sundry Appropriations Act of 1890 (predecessor to 43 USCS § 662); and (3) even if Congress did intend to reserve the bed of Utah Lake in either the 1888 Act or the 1890 Act, Congress did not clearly express an intention to defeat Utah's claim to title to the lake bed under the equal footing doctrine upon entry into statehood. *Utah Div. of State Lands v United States* (1987) 482 US 193, 96 L Ed 2d 162, 107 S Ct 2318, on remand (CA10) 846 F2d 613.

#### § 154. Delegation to territorial legislature; control of Congress over acts of territorial legislature

##### Case authorities:

Provision of 48 USCS § 872 precluding federal jurisdiction of suit to restrain assessment or collection of tax imposed by Puerto Rican

law has no application to issue of whether fees for forensic and notarial stamps which Puerto Rican attorneys must purchase for support of integrated bar are taxes, since question of federal law rather than Commonwealth law is presented. *Re Justices of Supreme Court* (1982, CA1) 695 F2d 17.

Under Article 4, § 3, Clause 2, Congress has power to legislate directly for Guam, or to establish government for Guam subject to congressional control, and thus, Guam has no inherent right to govern itself. *Guam v Okada* (1982, CA9 Guam) 694 F2d 565.

#### § 159. Organization and jurisdiction of courts

##### Statutes:

48 USCS § 1694 et seq. creates the District Court for the Northern Mariana Islands.

##### Case authorities:

Under provision of Organic Act of Guam (48 USCS § 1424(a)), Guam legislature has no power to authorize government appeals from judgments of District Court of Guam. *Guam v Okada* (1982, CA9 Guam) 694 F2d 565.

Trust Territory was subject to jurisdiction of United States and was not foreign country immune from federal court jurisdiction. *Sablan Constr. Co. v Government of Trust Territory* (1981, DC N Mariana Islands) 526 F Supp 135.

Even if the United States Supreme Court has supervisory power over the District Court of the Virgin Islands, the Supreme Court will decline to exercise any such power, with respect to the residency requirements of a local District Court rule for admission to the Bar of the District Court, for both the nature of the District Court and the reach of its residency requirements implicate territorial interests beyond the federal system, because (1) under 48 USCS §§ 1611-1616, the District Court is not a United States District Court, but an institution with the attributes of both a federal and a territorial court; and (2) the residency requirements, through the application of other local rules, also apply to admission to practice before the local territorial courts. *Barnard v Thorstenn* (1989, US) 103 L Ed 2d 559, 109 S Ct 1294.

#### § 160. Territorial legislation

##### Case authorities:

Legislators in Virgin Islands enjoy immunity for actions taken in regular course of legislative process; immunity does not protect inquiry into legislative activities simply because activities have some nexus to legislative functions or are casually or incidentally related to legislative affairs; legislative immunity protects only acts generally done in course of process of enacting legislation; in general, legislative factfinding falls within protected legislative sphere; burden of establishing applicability of legislative immunity by preponderance of evidence rests with legislator. *Government of Virgin Islands v Lee* (1985, CA3 VI) 775 F2d 514.

#### § 161. —Examples of rightful subjects of legislation

##### Statutes:

48 USCS § 1471, concerning special laws



## TENEMENT

Page 600

page 600

## TENOSYNOVITIS.

Inflammation of a sheath of a tendon.<sup>182</sup>

88-56. *Stedman Med. D.*

La.—*Dequervain's* or *Quervain's* Mt. Liability Ins. Co. La.App. 221 So.2d 198, 199

## Similarly expressed

(1) Thickening and growth of the sheaths over the tendons of the wrist and hands, causing an inflammation of the tendon sheaths of the wrist and hands, further denominated *Dequervain's* disease or a *gouty cyst*, is "tenosynovitis"—*Tennessen Tufing Co. v. Porter*, 136 S.W.2d 379, 342, 206 Tenn. 620.

**TEN-PERCENTER.** A person who cashes race track tickets for a true winner in exchange for a ten percent commission.<sup>183</sup>

88-78. U.S.—U.S. v. *Port*, C.A.Pa. 448 F.2d 1257, 1258.

## TENTATIVE.

page 601

94. Pa.—*Arout v. Wern*, 184 A.2d 24, 26, 198 Pa.Super 506, 608.

## Similarly defined

The word "tentative" is defined as provisional, conditional or uncertain—*Devoport v. Devoport*, 128 S.E.2d 772, 774, 218 Ga. 475.

## TERM.

page 603

## Similarly expressed

(2) "Term" is defined as proposition, limitation, or provision, stated or offered, as to contracts, for the acceptance of another and determining the nature and scope of the agreement—*Moore v. Wells*, 99 S.E.2d 731, 735, 212 Ga. 444.

## —Denoting Time or Duration.

page 604

## 76. Tenure

Ky.—*Board of Ed. of Pendleton County v. Gubick*, 398 S.W.2d 480, 483.

77. Ky.—*Board of Ed. of Pendleton County v. Gubick*, 398 S.W.2d 483, 485.

page 605

83. Ky.—*Board of Ed. of Pendleton County v. Gubick*, 398 S.W.2d 483, 485.

85. Ky.—*Board of Ed. of Pendleton County v. Gubick*, 398 S.W.2d 483, 485.

"Term" has been distinguished from "vacancy."<sup>184</sup>

88-1. Va.—*Frans v. Davis*, 131 S.E. 784, 785, 144 Va. 120.

66 C.J. § 385 note 79.

—In Contravention and with Reference to Tenancies.

## 1. Similarly defined

(1) A determined or prescribed duration, or as a limitation, or extent of time for which an estate is granted—*Etheridge v. U.S.*, D.C.N.C. 218 F.Supp. 609, 812.

## —Phrases.

## 12. Phrase

(9) "Unseized term" distinguished from "vacancy"—*State ex rel. Sanchez v. Dixon*, La.App. 4 So.2d 591, 596.

66 C.J. § 385 note 80.

## TERMINAL.

## 13. Similarly defined

(1) Either end of a carrier line, as a railroad, trucking, or shipping line or airline, with freight and/or passenger stations, yards, and offices, any freight or passenger station located to a considerable area or a junction station of a carrier line—*Beasley v. De Kalb County*, 77 S.E.2d 740, 743, 210 Ga. 41.

## TERMINATE.

16. Conn.—*Perruccio v. Allica*, 240 A.2d 912, 914, 156 Conn. 282; *Jaskowicz v. Maclester*, 387 A.2d 1081, 1082, 34 Conn.Sep. 670.

## Similarly defined

(2) Word "terminate" means to complete, or to finish—*U.S. Pipe & Foundry Co. v. Nettle*, Ala.App. 96 So.2d 186, 194.

17. Conn.—*Perruccio v. Allica*, 240 A.2d 912, 914, 156 Conn. 282.

18. Ala.—*U.S. Pipe & Foundry Co. v. Nettle*, App. 96 So.2d 186, 194.

Conn.—*Perruccio v. Allica*, 240 A.2d 912, 914, 156 Conn. 282.

page 607

22. Ala.—*U.S. Pipe & Foundry Co. v. Nettle*, App. 96 So.2d 186, 194.

## TERMINATION.

## 28. Complete finality

N.J.—*Burder v. Battelle Co.*, 140 A.2d 34, 38, 32 N.J. 154, 95 A.L.R.2d 1573.

## 21. Similarly defined

(1) "Termination" means end in time or existence, close, cessation, conclusion—*Perruccio v. Allica*, 240 A.2d 912, 914, 156 Conn. 282.

page 608

## TERMINUS.

## 36. Similarly expressed

"Terminus" is not a word of territorial extent. It is a word denoting the end of a transportation line—*Golden Gate Seismic S.S. Lines, Inc. v. Public Utilities Commission*, 19 Cal.Rptr. 657, 661, 369 P.2d 257, 261, 37 Cal.2d 373.

## TERRAZZO.

45. Ga.—*Consl. Park, Inc. v. Gray*, 202 S.E.2d 548, 550, 130 Ga.App. 125.

Or.—*Quinn v. Donald M. Drake Co.*, 391 P.2d 761, 765, 237 Or. 419.

## 46. Similarly defined

(2) "Terrazzo" is a mixture of small marble scraps or particles and cement which is first poured and trowelled while soft, and when hardened it is ground to a level and polished by electrically-powered machinery—*Palumbo v. Palumbo*, La.App. 113 So.2d 87, 68.

page 609

## TERRIFIC.

## 54. Similarly defined

"Terrific" defined as "existing fear or awe"—*Abernathy v. County*, C.A.S.C. 429 F.2d 1176, 1175.

86 CJS 102

## TERRITORIES

## § 1. Definitions, Nature, and Distinctions

## Library References

Territories 601 et seq.

page 611

1. U.S.—*American of Puerto Rico, Inc. v. Kaplan*, C.A.N.J. 348 F.2d 431, cert. den. 37 S.Ct. 977, 348 U.S. 943, 17 L.Ed.2d 874.

Inda.—C.J.S. cited in *Red Lake Band of Chippewa Indians v. State*, 248 N.W.2d 722, 727, 311 Minn. 241.

When used to denote word may intend to denote "plant" or "tree".

U.S.—*Moreno Rico v. U.S.*, C.A.Puerto Rico, 236 F.2d 48.

5. U.S.—*U.S. Lines Co. v. Eastern Marine Chemicals Co.*, D.C.N.Y. 221 F.Supp. 881.

## § 2. Acquisition of Territory by United States; Property Rights of Inhabitants

13. U.S.—U.S. v. *Angono*, D.C.Oma. 190 F.Supp. 696; *Alcoa S.S. Co. v. Peru*, D.C.Puerto Rico, 295 F.Supp. 187, rem'd. C.A., 424 F.2d 433.

14. U.S.—U.S. v. *Alaska, Alaska*, 95 S.Ct. 2240, 422 U.S. 184, 45 L.Ed.2d 109, on remand, C.A., 519 F.2d 1374, reh. den. 96 S.Ct. 159, 422 U.S. 885, 46 L.Ed.2d 116.

page 612

Other matters relating to the property and other rights of inhabitants of territories acquired by the United States have been adjudicated.<sup>193</sup>

19-5. U.S.—*Government of the Canal Zone v. Scott*, C.A.Can. Zone, 302 F.2d 566.

D.C.—*Ralpho v. Bell*, C.A., 569 F.2d 607, 116 U.S.App.D.C. 368, reh. den. 569 F.2d 634, 126 U.S.App.D.C. 397, app. after remand 643 F.2d 10, 207 U.S.App.D.C. 75.

U.S.—*People of Saipan, By and Through Government v. U.S. Dept. of Interior*, C.A.Hawaii, 502 F.2d 90, cert. den. 95 S.Ct. 1445, 420 U.S. 1003, 43 L.Ed.2d 761.

U.S.—*People of Saipan, By and Through Government v. U.S. Dept. of Interior*, C.A.Hawaii, 502 F.2d 90, cert. den. 95 S.Ct. 1445, 420 U.S. 1003, 43 L.Ed.2d 761.

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37. U.S.—Government of Virgin Islands v. Rijos, D.C. Virgin Islands, 285 F.Supp. 126—Government of the Canal Zone v. Scott, C.A. Canal Zone, 502 F.2d 566.

38. U.S.—U.S. ex rel. Legation v. Davis, D.C. Virgin Islands, 115 F.Supp. 392, rev'd on reh. grds., C.A., 212 F.2d 681—Government of Virgin Islands v. Rijos, D.C. Virgin Islands, 285 F.Supp. 126—Consolidated v. Corvett, D.C. Virgin Islands, 341 F.Supp. 1170, aff'd, C.A., 456 F.2d 577.

#### Rights of personal privacy

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#### Applicable period

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#### Persons entitled to claim protection

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48. U.S.—Government of Virgin Islands v. Rijos, D.C. Virgin Islands, 285 F.Supp. 126.

#### Trust territories

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#### Reason for rule

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41. U.S.—Is re Brown, C.A. Virgin Islands, 439 F.2d 47.

#### Guam

Territory of Guam could not "justly" abort regulation otherwise invalid under *Roe v. Wade* on ground that it embodied Guam's view of when life begins.  
U.S.—Guam Soc. of Obstetricians and Gynecologists v. Ada, D. Guam, 778 P.Supp. 1422, aff'd, 903 F.2d 1364, 8th. cert. den. 113 S.Ct. 633, 121 L.Ed.2d 584.

42. U.S.—Kashy v. Miracle Properties, D.C. Ariz., 412 F.Supp. 1072.

#### Hawaii

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#### Alaska

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page 614

45. U.S.—Government of Canal Zone v. Bender, C.A. Canal Zone, 573 F.2d 1329.

46. U.S.—Rodriguez v. Popular Democratic Party, Puerto Rico, 103 S.Ct. 2194, 457 U.S. 1, 77 L.Ed.2d 628.

#### Eighth Amendment

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No greater restrictions imposed than those imposed on states

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47. U.S.—U.S. v. Rios, D.C. Puerto Rico, 140 F.Supp. 178—Guerrero v. Alcon S.S. Co., C.A. Puerto Rico, 234 F.2d 349—Valdes v. U.S., C.A. Puerto Rico, 289 F.2d 607—Thompson v. Rolan Elec. Corp., D.C. Puerto Rico, 314 F.Supp. 752—People of Envestis v. Laird, D.C. Hawaii, 333 F.Supp. 811—U.S. v. Santiago, C.A. Virgin Islands, 376 F.2d 562.

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48. U.S.—Joa. L. Muscarello, Inc. v. Asencia Timber & Trading Co., C.A. Canal Zone, 404 F.2d 467—Ballentine v. Hedrick, D.C. Virgin Islands, 351 F.Supp. 208.

49. U.S.—U.S. v. Taitano, C.A. Guam, 442 F.2d 447, cert. den. 92 S.Ct. 92, 404 U.S. 832, 30 L.Ed.2d 92—U.S. v. Standard Oil Co. of Cal., Cal., 92 S.Ct. 661, 404 U.S. 558, 30 L.Ed.2d 713, reh. den. 92 S.Ct. 1166, 405 U.S. 969, 31 L.Ed.2d 244—Torres v. Com. of Puerto Rico, Puerto Rico, 99 S.Ct. 2425, 442 U.S. 465, 61 L.Ed.2d 1.

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Guam considered "state" within statute

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50. U.S.—Conservacion v. Internacional Longshoremen's Ass'n District Council of Porto de Puerto Rico, D.C. Puerto Rico, 126 F.Supp. 420—Government of Virgin Islands v. Bodie, C.A. Virgin Islands, 477 F.2d 132.

51. U.S.—Viermasa S.E. Corp. v. Rodriguez, C.A. Puerto Rico, 290 F.2d 173—Feliciano v. U.S., D.C. Puerto Rico, 297 F.Supp. 1354, aff'd, C.A., 422 F.2d 943, cert. den. 91 S.Ct. 41, 400 U.S. 823, 27 L.Ed.2d 31—U.S. v. Blomster, D.C. Puerto Rico, 377 F.Supp. 132.

#### Effect of repeal of statute

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#### Pre-acquisition statutes apply to territories

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Clean Water Act not made locally inapplicable by Federal Relations Act

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#### Civil Rights Act

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#### Particulate regulations

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53. U.S.—Madsen v. Hinesham, C.A. Wash., 337 F.2d 370—David Cabrera, Inc. v. Unidos de Choferes y Dueños de Camiones Hermanados de Puerto Rico, D.C. Puerto Rico, 256 F.Supp. 139—Kane-

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## § 9. Political Status and Relations and Classification

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#### Territories ¶¶7 et seq.

page 618

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(7) Other matters.

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#### Puerto Rico

(1) U.S.—Consorcio v. Internacional Longshoremen's Ass'n District Council of Porto de Puerto Rico, D.C. Puerto Rico, 126 F.Supp. 420.

(2) U.S.—Pan Am. Standard Brands, Inc. v. U.S. Com. Ct., 177 F.Supp. 769.

(8) Other cases.

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page 616

61. Commonwealth of Puerto Rico

(2) Other matters.

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Attributes of autonomy similar to sovereign government or state

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#### 64. Trust territory

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65. U.S.—Harris v. Boreham, C.A. Virgin Islands, 233 F.2d 110.

#### Temporary sovereign governments

U.S.—Harris v. Municipality of St. Thomas and St. John, supra, at 60.

## § 9 TERRITORIES

Page 618

68. U.S.—Construction Aggregates Corp. v. Rivera de Vozny, C.A.Puerto Rico, 373 F.2d 84.

## § 10. — "State" Compared and Distinguished

page 617

78. U.S.—Arroyo v. M/V Island Queens II, D.C.Puerto Rico, 379 F.Supp. 15.

## 79. Puerto Rico

- (3) U.S.—Alcoa S.S. Co. v. Perez, D.C.Puerto Rico, 295 F.Supp. 187, *reverd.* C.A., 424 F.2d 435.  
(4) U.S.—Alcoa S.S. Co. v. Perez, D.C.Puerto Rico, 295 F.Supp. 187, *reverd.* C.A., 424 F.2d 435.  
(5) Puerto Rico Possesses many of the attributes of sovereignty of states.

- U.S.—Canal v. San Juan Canal, Co. Inc., D.C.Puerto Rico, 387 F.Supp. 916—Rodriguez v. Popular Democratic Party, Puerto Rico, 102 S.Ct. 2194, 457 U.S. 1, 72 L.Ed.2d 638.  
86. U.S.—Harris v. Municipality of St. Thomas and St. John, *supra*, n. 60.

## 88. Virgin Islands

- U.S.—South v. Government of Virgin Islands, C.A.Virgin Islands, 375 F.2d 716.

page 618

93. U.S.—Leguina v. Arred, D.C.Quincy, 102 F.Supp. 919, *affd.* C.A., 212 F.2d 207, *cert. den.* 75 S.Ct. 51, 348 U.S. 830, 99 L.Ed. 654.

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- U.S.—Filipino Am. Veterans and Dependents Ass'n v. U.S., D.C.Cal., 391 F.Supp. 1316.

## Virgin Islands, etc.

- U.S.—U.S. ex rel. Lepellou v. Davis, D.C.Virgin Islands, 115 F.Supp. 392, *revd.* on *oth. grds.* C.A., 212 F.2d 681—Smith v. Government of Virgin Islands, C.A.Virgin Islands, 375 F.2d 716—Government of Virgin Islands v. Bode, C.A.Virgin Islands, 177 F.2d 972.

## GUAM, etc.

- U.S.—Machen v. Government of Guam, C.A.Guam, 212 F.2d 767, *cert. den.* 75 S.Ct. 17, 348 U.S. 801, 99 L.Ed. 639—Government of Guam v. Pennington, D.C.Guam, 114 F.Supp. 907, *revd.* on *oth. grds.* C.A., 228 F.2d 892.

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- (1) Other matters.  
U.S.—Cordova & Simpsonist Ins. Agency Inc. v. Cham Manhattan Bank N.A., C.A.Puerto Rico, 649 F.2d 34.

## Canal Zone

- U.S.—U.S. v. Husband R. (Roach), C.A.Canal Zone, 433 F.2d 1054, *cert. den.* 92 S.Ct. 1783, 406 U.S. 935, 32 L.Ed.2d 136.

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## § 12. — Incorporated and Unincorporated Territories

## § 13. — Foreign Territory or Country

3. U.S.—U.S. v. Mendoza, C.A.Fla., 427 F.2d 992.

## § 15. — Power of Congress

Library References  
Territories ¶4. 11.

page 619

5. U.S.—Harris v. Boreham, C.A.Virgin Islands, 233 F.2d 110—Government of Guam v. Kasebe, D.C.Guam, 137 F.Supp. 189—Rabang v. Boyd, Wash., 77 S.Ct. 985, 353 U.S. 427, 1 L.Ed.2d 956, *revd.* *den.* 77 S.Ct. 1421, 354 U.S. 944, 1 L.Ed.2d

- 1543—Seaver v. Paragon Homes, Inc., D.C.Virgin Islands, 351 F.Supp. 596.

## Canal Zone

- U.S.—U.S. v. Husband R. (Roach), C.A.Canal Zone, 433 F.2d 1054, *cert. den.* 92 S.Ct. 1783, 406 U.S. 935, 32 L.Ed.2d 136.

6. Congress may alter, revise and revoke delegated powers

- U.S.—Harris v. Boreham, C.A.Virgin Islands, 233 F.2d 110.

## Broad powers

- U.S.—Examining Bd. of Engineers, Architects and Surveyors v. Flores de Otero, Puerto Rico, 96 S.Ct. 2264, 426 U.S. 372, 49 L.Ed.2d 45.

6. U.S.—Pan Am. Standard Brands, Inc. v. U.S. Cust.Cl., 177 F.Supp. 769.

9. U.S.—Harris v. Municipality of St. Thomas and St. John, D.C.Virgin Islands, 111 F.Supp. 63, *affd.* C.A., 212 F.2d 323.

## Aim of congress

- U.S.—Harris v. Boreham, C.A.Virgin Islands, 233 F.2d 110.

18. U.S.—Alamo Community of St. Paul Island v. U.S., 117 F.Supp. 427, 127 Cl.Ct. 528.

11. Authority over basic areas delegated to executive branch

- U.S.—U.S. v. Husband R. (Roach), C.A.Canal Zone, 433 F.2d 1054, *cert. den.* 92 S.Ct. 1783, 406 U.S. 935, 32 L.Ed.2d 136.

page 620

24. U.S.—Miera v. Torres, D.C.Puerto Rico, 113 F.Supp. 309, *affd.* C.A., 206 F.2d 377.

## § 17. — Nature, Construction, and Operation of Organic Act

page 621

34. U.S.—Harris v. Municipality of St. Thomas and St. John, D.C.Virgin Islands, 111 F.Supp. 63, *affd.* C.A., 212 F.2d 323.

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36. U.S.—Oyer v. Kamahia Abe, D.C.Hawaii, 158 F.Supp. 220, *revd.* on *oth. grds.* C.A., 256 F.2d 728.

- N.M.—State ex rel. Bliss v. Greenwood, 315 F.2d 223, 83 N.M. 156.

## Revised Organic Act of Virgin Islands

- U.S.—Virgo Corp. v. Palewosky, C.A.Virgin Islands, 384 F.2d 569, *cert. den.* 88 S.Ct. 1633, 1634, 390 U.S. 1041, 20 L.Ed.2d 303, *reh. den.* 88 S.Ct. 3053, 392 U.S. 917, 20 L.Ed.2d 1379.

42. Particular act construed

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- U.S.—Linnson v. U. S., C.A.Guam, 673 F.2d 1069—Quam Soc. of Ophthalmologists and Otolaryngologists v. Adams, D.C.Guam, 776 F.Supp. 1422, *affd.* 982 F.2d 1366, *sth.* *cert. den.* 113 S.Ct. 633, 121 L.Ed.2d 364.

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45. U.S.—Harris v. Municipality of St. Thomas and St. John, *supra*, n. 34.

page 622

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page 623

62. Application of power  
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64. U.S.—Alcoa S.S. Co. v. Velez, C.A.Puerto Rico, 376 F.2d 521, *on remand*, D.C., 285 F.Supp. 128—U.S. Jay Use of Oats Bros. & Co. v. Markovits Bros. (Del.), Inc., C.A.Guam, 383 F.2d 396—Carreras v. San Juan Bargo Co., D.C.Puerto Rico, 387 F.Supp. 721, *affd.* C.A., 520 F.2d 303.

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66. U.S.—In re Hooper's Estate, C.A.Virgin Islands, 359 F.2d 369, *cert. den.* 87 S.Ct. 206, 365 U.S. 903, 17 L.Ed.2d 135.

- Exemption not assignable  
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76. U.S.—American Eutectic Welding Alloys Sales Co., Inc. v. Rodriguez, C.A.Puerto Rico, 480 F.2d 223.

- § 19. — Form and Nature of Territorial Government; Division of Powers

page 624

78. U.S.—Sola v. Sanchez Vilella, D.C.Puerto Rico, 270 F.Supp. 459, *affd.* C.A., 390 F.2d 160.

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80. U.S.—Harris v. Municipality of St. Thomas and St. John, *supra*, n. 34.

- § 20. United States Congress

page 625

98. U.S.—Americana de Puerto Rico, Inc. v. Kaplan, C.A.N.J., 368 F.2d 431, *cert. den.* 87 S.Ct. 977, 386 U.S. 943, 17 L.Ed.2d 878.

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5. U.S.—Filipino Am. Veterans and Dependents Ass'n v. U.S., D.C.Cal., 391 F.Supp. 1316.



Dr. RAMIREZ DE FERRER. Always studies and opinions from the three branches of government have reaffirmed that Puerto Rico is a territory of the United States. The 1993 plebiscite results did not change that.

At first glance, Members of Congress might see the results of the 1993 plebiscite as a major victory for commonwealth. However, you will find that the majority of the people voted for a change. Although statehood did not win, commonwealth did not win either. For the first time in the history of Puerto Rico, over 50 percent of the people rejected commonwealth.

A study we are preparing based on the opinions of people throughout the island as to why statehood fails reveals that the Commonwealth has centered their campaign around making people fear the economic ramifications of statehood.

For example, one of the main efforts was to install fear about a Federal property tax, a Federal tax on goods. They used these scare tactics to persuade voters that many would lose their homes if statehood won.

The definition of commonwealth contained a list of goals and policies that, apparently, can never be obtained. The commonwealth test basically offered the people of Puerto Rico statehood without taxation. For example, full Federal benefits without tax contributions, special protection for Puerto Rican agricultural products, a revised and improved section 936.

In summary, the negative nature and the false promises of the Commonwealth campaign led to the defeat of statehood by a scarce margin. The results of the plebiscite were very inconclusive. It is the consequence of allowing the local political parties to unilaterally define the status formulas in what was described as wish lists. The only clear message from the plebiscite was that we truly desire a permanent union with the United States.

This leads me to the proposal offered by Congressman Don Young which provides for a process in which Puerto Ricans could negotiate greater constitutional rights and many of the other benefits the States currently enjoy. In fact, incorporation is the most adequate and proper response by Congress to what nearly 95 percent of the United States citizens in Puerto Rico voted for in the November 14 plebiscite: a permanent union with the United States, guarantee of United States Constitution, United States citizenship, and parity in Federal programs.

The great Commonwealth leader, Muñoz Marín, would have welcomed this. When he testified before a Senate committee on March 13, 1950, he said, we would like to be as similar as possible with Federal States. We want to contribute our part to the growth of the whole American economy of which we are a part.

He also said, those parts which are not, properly speaking, a constitution but rather a statute of relationship—judicial, fiscal and economic—between the island of Puerto Rico and the rest of the States would continue to function.

He also later testified in favor of extending the right to vote for the President of the United States.

It is unfair that the United States citizens and the territories are not fully protected by the Constitution. We are extremely supportive of any mechanism or process in which the people of the terri-



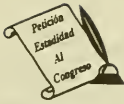
tories have a legitimate, honest chance of improving their livelihood in relationship with the United States.

Another idea would be to enact into the law the necessity for territories to conduct status plebiscites on a regular basis. We would be happy to work on such a concept with the Congress. We believe the subcommittee has taken a positive approach by examining the status issues of the territories and listening to everyone's views.

I thank you for the opportunity to testify here today, and I look forward to working with the subcommittee and other Members of the Congress in regards to the question of status.

Mr. DE LUGO. Well, thank you very much, Dr. Ramirez.

[Prepared statement of Dr. Ramirez follows:]



PUERTORICANS IN CIVIC ACTION  
PUERTORIQUEOS EN ACCION CIUDADANA

Miriam J. Ramirez de Ferrer MD  
President

TESTIMONY BY MIRIAM J. RAMIREZ DE FERRER ON H.R. 4442  
President of Puerto Ricans In Civic Action

Pg.1

I welcome the opportunity to testify before your subcommittee today to discuss Congressman's Don Young's Bill to provide consultations for the development of Articles of Relations and Self Government for the insular Areas of The United States.

My name is Dr. Miriam Ramirez de Ferrer, President of Puerto Ricans in Civic Action, a non partisan civic organization working to secure political equality for the 3.3 million residents of the island. I have long headed grassroots campaigns to secure political equality for Puerto Rico through statehood -- the one option that would guarantee the citizens of the territory of Puerto Rico full representation and equal treatment.

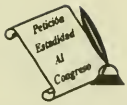
We would like to stress the word territory, since members of the commonwealth party find it difficult to accept the fact that Puerto Rico is a territory of the United States.

In the legal Encyclopedia " 72 Am Jur 2d. pgs.521, it states: "P.R. despite Commonwealth status is still a territory within the meaning of Article 4 of the Constitution giving Congress power to make rules and regulations for the territories."

Another legal reference, the " 86 C.J.S.pg.614 " states: "Under the terms of the compact offered to the people of Puerto Rico by Pub.L.600, 48 U.S.C.A. 731b-731d and by the Joint Resolution of Congress approving the constitution adopted by the people of Puerto Rico pursuant thereto, 48 U.S.C.A 731d note, the government of the newly created commonwealth of Puerto Rico is subject to the "applicable provisions of the constitution of the United States"

Also, in the legislative history of the Congressional bill that provided for the enactment of the Puerto Rico - Constitutional Government Organization, the House Report No. 2275, June 19,1950, which repeated the Senate report No.1779, June 6,1950 leaves no doubt as to Puerto Rico's relationship with the U.S. following the adoption of the Constitution. The following appears on page 2684: " Puerto Rico is unincorporated territory." ( Please include copy of text for the record.)

All recent studies and opinions from the three branches of government have affirmed that Puerto Rico is a territory of the United States, under the " Territorial Clause." of the United States Constitution. The 1993 plebiscite results have not changed that situation. These include:



**PUERTORICANS IN CIVIC ACTION**  
 PUERTORIQUEÑOS EN ACCION CIUDADANA

Miriam J. Ramirez de Ferrer MD  
 President

**TESTIMONY BY MIRIAM J. RAMIREZ DE FERRER ON H.R.4442**  
 President of Puerto Ricans In Civic Action

Pg.2

**A. JUDICIAL POWER: United States Courts**  
 US Court of Appeals for the Eleventh Circuit  
 US v. Sanchez 992F.2d 1143 (11th Cir.1993)

They shared the pervading views of the US courts and concluded that " P.R.is still a territory a not a separate sovereign.... Congress may unilaterally repeal the Puerto Rican Constitution of the P.R.Federal Relations and replace that with any rules or regulations of their choice.

**US v. Lopez Andino 831 F.2nd 1164 (1st.Circuit 1987)**

"Congress has simply delegated more authority to Puerto Rico over local matters, but this has not changed in any way P.R.'s constitutional status as a territory or the source of power over Puerto Rico. Congress continues to be the ultimate source of power pursuant to the Territory Clause of the Constitution."

**HARRIS v. ROSARIO, 446 U.S.651 (1980)**

The Supreme Court determined that Congress was empowered by the Territorial Clause to make all needful rules and regulations with respect to P.R.

**PUERTO RICO SUPREME COURT:**

(Sanchez Vilella y Colon Martinez v. ELA 93 JTS 136).

Supreme Court Justice Antonio Negrón García, in his dissenting opinion in a lawsuit challenging the constitutionality of the plebiscite bill: "Nobody has exposed a sole persuasive argument against the undeniable reality that this plebiscite has transformed our democracy in a "Partycracy".

**B. EXECUTIVE POWER: Justice Department**

**SECTION BY SECTION COMMENTS ON S.244 OF FEBRUARY 5, 1991:**

"Under the Constitution, an area under the sovereignty of the U.S. that is not included in a state must necessarily be governed by or the authority of Congress (National Bank v. County of Yankton, 101 U.S.129, 1980)

Regarding some's erroneous belief that the Commonwealth is a relationship that is permanent unless revoked by mutual consent, the Dept. of Justice states:..." this clause may improperly attempt to impose a statutory limitation on Congress' power under the Territory Clause of the Constitution.".



PUERTORICANS IN CIVIC ACTION  
PUERTORIQUEÑOS EN ACCIÓN CIUDADANA

Miriam J. Ramírez de Ferrer MD  
President

TESTIMONY BY MIRIAM J. RAMIREZ DE FERRER ON H.R.4442  
President of Puerto Ricans In Civic Action

Pg.3

D.LEGISLATIVE POWER: United States' Congress  
GENERAL ACCOUNTING OFFICE:

"The Applicability of Relevant Provisions of the U.S. Constitution U.S. Insular Areas, June 1991. It concludes that the Territorial Clause of the Constitution applies to Puerto Rico.

CONGRESSIONAL RESEARCH SERVICE: AMERICAN LAW DIVISION:  
"Legal Status of Puerto Rico " November 1993.

As this subcommittee is well aware, Puerto Rico held a plebiscite last November to determine whether the people preferred a status of continued commonwealth, statehood or independence. The Puerto Rican Senate and House of Representatives, through a joint resolution, has officially notified the United States Congress regarding the results of the plebiscite held on November 14, 1993. The official results of the plebiscite were 48.7% for Commonwealth, 46.5% for Statehood and 4.5% for Independence.

At first glance, members of the sub-committee and other members of Congress might envision the results of the November plebiscite as a major victory for the Commonwealth party and its platform. This perception might lead Congress to conclude that the voters of Puerto Rico support the island's status quo.

However, if you take a closer look at the results, you will find that the majority of the people voted for a change. Although much to my disappointment statehood did not win, the commonwealth platform did not win either. For the first time in the history of Puerto Rico, the majority of voters did not support the island's current status. For example, in the 1967 plebiscite the voters chose the commonwealth option by 60%. However, in this recent vote, only 48% of the voters chose commonwealth status, and over 50% decided to reject commonwealth.

If one compares the vote totals of the two plebiscites, the trend is clearly towards statehood. Whenever the next plebiscite is held, the vote total for statehood will likely increase. More importantly, the growing support for statehood will eventually lead to a victorious plebiscite and an official petition to Congress to admit Puerto Rico as the 51st. State of the Union.

I would like to take a few minutes to explain why we believe that voters selected commonwealth over statehood.





PUERTORICANS IN CIVIC ACTION  
PUERTORIQUEÑOS EN ACCION CIUDADANA

Miriam J. Ramirez de Ferrer MD  
President

TESTIMONY BY MIRIAM J. RAMIREZ DE FERRER ON H.R. 4442  
President of Puerto Ricans In Civic Action

Pg. 4

Our Organization is in the process of preparing a report based on the opinions of hundreds of people throughout the island, as to why statehood lost the plebiscite. People responded with the following data:

The commonwealthers spent much of their initial resources and centered almost their entire campaign around making Puerto Ricans fear the economic ramifications of statehood.

For instance: one of the commonwealthers main efforts was to install fear about a Federal property tax and a federal tax on goods.

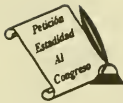
They used these scare tactics to persuade voters that many Puerto Ricans would lose their homes if statehood won, since many poor people would not be able to pay these federal taxes. As you are aware, there has never been a federal property or sales tax.

Another scare tactic which the commonwealthers used was the claim that the 936 companies would leave the island if statehood won. As you already know, Congress has reformed and reduced Section 936 regularly since 1986. Many government studies and well known economists claim that Section 936 has done little for the Puerto Rican economy in the last decade except to increase the profits of certain capital intensive firms. We heard many stories from towns with 936 plants that threatened workers with their jobs.

Another central reason given was that the definition of Commonwealth contained a list of goals and policies that can never be obtained.

In other words, the commonwealthers offered the people a status definition or so-called enhanced commonwealth that would be difficult for the President and Congress to implement, since each party was allowed to define its own status option, the commonwealthers basically offered the people of Puerto Rico statehood without taxation.

Let's examine the commonwealth platform proposals and its acceptability to the President and the Congress.



PUERTORICANS IN CIVIC ACTION  
PUERTORIQUEÑOS EN ACCION CIUDADANA

Miriam J. Ramirez de Ferrer MD  
President

TESTIMONY BY MIRIAM J. RAMIREZ DE FERRER ON H.R. 4442  
President of Puerto Ricans In Civic Action

Pg. 5

1) A BILATERAL PACT BETWEEN PUERTO RICO AND THE U.S.

The Commonwealth Party platform stated that a bilateral pact can be established that will allow Puerto Rico veto power over all proposed changes in federal policy towards the island. Under the Constitution, this type of pact could never take place since a territory must remain under the jurisdiction of Congress unless it becomes a state or chooses independence. For instance, if Section 936 tax credits were part of this pact, Congress could not change the law without the consent of the Government of Puerto Rico.

This view was recently confirmed by a federal court decision in which the bilateral pact of the Mariana Islands was considered beneath Congressional power under the territorial clause.

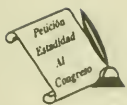
It would be unconstitutional for the United States to recognize or enter into any kind of a bilateral pact with Puerto Rico as defined on the 1993 plebiscite ballot. We strongly advise Congress to take these facts into account and not ignore the legal precedents of the U.S. Court System;...or the opinions of pertinent agencies like the Department of Justice the General Accounting Office of Congress, the American Law Division and the Congressional Research Service.

2) FULL FEDERAL BENEFITS WITHOUT TAX CONTRIBUTIONS

The Commonwealth party campaigned on the promise that Puerto Rico would receive full federal benefits without paying federal taxes. This pledge goes against the nature of recent Congressional actions in Medicare, Medicaid, and welfare reform. The average Puerto Ricans has his or her federal benefits capped at about 20-30% of what the average person receives on the US mainland. It is very unlikely these benefits will go much higher unless Puerto Ricans start paying federal taxes.

3) SPECIAL PROTECTION FOR PUERTO RICANS AGRICULTURAL PRODUCTS.

The commonwealth platform called for special protection of Puerto Rico on Agricultural products. These protectionist measures are inconsistent with NAFTA, the recent GATT agreement and the global trend of opening domestic markets and removing protectionists measures. It is very unrealistic that Congress will establish a new category for the island's agricultural products that gives them greater protection than other American farm goods.



PUERTORICANS IN CIVIC ACTION  
PUERTORIQUEÑOS EN ACCION CIUDADANA

Miriam J. Ramirez de Ferrer MD  
President

TESTIMONY BY MIRIAM J. RAMIREZ DE FERRER ON H.R. 4442  
President of Puerto Ricans In Civic Action

Pg. 6

4) A REVISED AND IMPROVED SECTION 936

This platform promise is the most absurd of them all. While Congress significantly reduced Section 936 benefits in the 1993 Reconciliation Act, the commonwealthers claimed that they can convince Congress to reform Section 936 to be entirely on a profit base system.

As you might be aware, the congressional reforms to Section 936 in 1993 reduced these tax credits by over \$3 billion. Yet, many commonwealthers claimed that the enhanced commonwealth status will bring billions and billions of new dollars and jobs to Puerto Rico.

In summary, the negative nature of the commonwealth campaign and the false promises of its platform led to the defeat of the statehood platform in the November plebiscite although by a scarce margin.

In retrospect, given this scenario, it seems that commonwealth should have won by even a greater margin. Overall, the results of the plebiscite were very inconclusive on the question of commonwealth or statehood. The only clear message from the plebiscite was that the United States citizens of Puerto Rico truly value their relationship with the United States.

This leads me to the proposal offered by Congressman Don Young (R-AK) which calls for consultations for the development of Articles of Relations and Self Government for Insular areas of the United States. It provides for a process in which Puerto Ricans could negotiate for greater constitutional rights and many of the other benefits the States currently enjoy. Since 95% of the plebiscite voters supported U.S. citizenship and a permanent union with the United States, this bill would establish a process in which these critical issues can be negotiated with the Administration.

IN FACT, INCORPORATION IS THE MOST ADEQUATE AND PROPER RESPONSE BY CONGRESS TO WHAT NEARLY 95% OF THE UNITED STATES CITIZENS IN PUERTO RICO VOTED FOR IN THE NOV. 14 PLEBISCITE: A PERMANENT UNION WITH THE UNITED STATES; GUARANTEE OF THE UNITED STATES CITIZENSHIP, AND PARITY IN FEDERAL PROGRAMS.



PUERTORICANS IN CIVIC ACTION  
PUERTORIQUEÑOS EN ACCION CIUDADANA

Miriam J. Ramirez de Ferrer MD  
President

TESTIMONY BY MIRIAM J. RAMIREZ DE FERRER ON H.R. 4442  
President of Puerto Ricans In Civic Action

Pg. 7

As a matter of fact, the great commonwealth leader, Luis Munoz Marin would have welcomed this. When he testified before this same committee on March 13, 1950 during the Hearings on the Organization of a Constitutional Government in Puerto Rico, before the 81st. Congress he said " We would like to be as similar as possible with Federal States." " We want to contribute our part to the growth of the whole American economy, of which we are a part." He also said " Those parts which are not properly speaking a constitution but rather a statute of relationship, judicial, fiscal and economic, between the island of Puerto Rico and the rest of the states would continue to function." Please include a transcript of said hearing for the record.

Also, during hearings held on April 6, 1960, Munoz Marin testified in favor of extending the right to vote for the President for the U.S citizens of P.R. ( See EL MUNDO, April 7, 1960.)

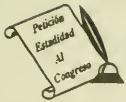
It is unfair that the U.S. citizens in the territories are not fully protected by the Constitution. The United States cannot preach democracy and morality to the rest of the world when it is ignoring the rights of its own citizens. We are supportive of any mechanism or process in which the people of the territories have a legitimate, honest chance of improving their livelihood and relationship with the United States.

Through such a process, we believe that in the end, the majority of the people in Puerto Rico and the mainland, would believe it is only just to provide the United States citizens of Puerto Rico with full benefits and equity -- and eventually a decision would be made to grant statehood to the island.

Another idea would be to enact into law the necessity for territories to conduct status plebiscites on a regular basis. This new law might only be applicable to territories once an official plebiscite takes place and the majority of voters support a change in the current status. I would be more than happy to work on such a concept with the Congress.

In conclusion, the status question in Puerto Rico is perhaps more complicated than any other U.S. territory. In addition to local political factors that make it a complex issue, there are hundreds of multinational corporations located in Puerto Rico that have a vested interest in Puerto Rico's status.





PUERTORICANS IN CIVIC ACTION  
PUERTORRIQUEROS EN ACCION CIUDADANA

Miriam J. Ramirez de Ferrer MD  
President

TESTIMONY BY MIRIAM J. RAMIREZ DE FERRER ON H.R. 4442  
President of Puerto Ricans In Civic Action

Pg. 8

The result of the 1993 Status plebiscite in Puerto Rico is the consequence of allowing the local political parties to unilaterally define the status formulas for the 1993 status plebiscite in what was described as "wish lists". The plebiscite was held under the control of the local political parties and did not allow civic participation.

This resulted in lawsuits challenging its constitutionality. It can be rightfully asserted that the 1993 plebiscite was something more akin to a straw poll on local party politics than an act of self determination.

Still, given the irresponsible and cynical promises made on the ballot in the plebiscite process that met neither federal nor international standards, it is astounding that "commonwealth" received less than a majority approval.

We believe the subcommittee is taking a positive approach by examining the status issue of the territories and listening to everyone's views. I thank you for the opportunity to testify here today and I look forward to working with this subcommittee and other members of Congress in regards to the question of status.

## LEGISLATIVE HISTORY

new incorporated Territories, to statehood, would complete the pattern set by the Northwest Ordinance and carried over by the organic legislation of the Territories on the mainland, that a Territory once incorporated is destined for ultimate statehood. Alaska and Hawaii are our only remaining incorporated Territories. We have given neither an expressed nor an implied pledge of incorporation or of statehood to the people of any of the other non-self-governing Territories under our jurisdiction. Puerto Rico has not been incorporated. Puerto Rico is "unincorporated Territory." The Constitution has never been extended to Puerto Rico. Puerto Rico does not, therefore, have the claim of statehood which the mainland Territories in Alaska and Hawaii have.

In conclusion, it is the feeling of this Committee that the people of Puerto Rico have demonstrated by their intelligent administration of local governmental activities, by their extensive use of the franchise, and by their high degree of political consciousness, that they are eminently qualified to assume greater responsibilities of local self-government.

The extent and nature of the political, economic, and social development of Puerto Rico warrants the advancement in self-government which S. 3336 would make possible. Such action by the Congress would be a clear expression of our esteem for the people of Puerto Rico. It would be a fundamental contribution to the art and practice of the government and administration of Territories under the sovereignty of the United States. Finally, enactment of S. 3336 would stand forth as a concrete demonstration to the nations of Latin America and the world, and especially the people of Puerto Rico, that the United States maintains its principles of democracy and self-determination into action.

The Committee on Public Lands unanimously recommends the enactment of S. 3336.

The favorable reports of the Department of the Interior, the Department of State, and the Bureau of the Budget, addressed to the Senate Committee on Interior and Insular Affairs, are as follows:

DEPARTMENT OF THE INTERIOR,  
Office of the Secretary,  
Washington 25, D. C., May 12, 1939.

Hon. JEROME D. D'AMORETTE,  
Chairman, Committee on Interior and Insular Affairs,  
United States Senate, Washington, D. C.

SIR: My Dear Senator D'AMORETTE: This is in reply to your request for the views of this Department on S. 3336, a bill to provide for the organization of a constitutional government by the people of Puerto Rico.

I strongly urge the enactment of S. 3336, with the amendment suggested.

It is important at the outset to avoid any misunderstanding as to the nature and general scope of the proposed legislation. Let me say that enactment of S. 3336 will in no way commit the Congress to the enactment of statehood legislation for Puerto Rico in the future. Nor will it in any way preclude a future determination by the Congress of Puerto Rico's ultimate political status. The bill merely authorizes the people of Puerto Rico to adopt their own constitution and to organize a local govern-

Some conditions, however, are always put in in the case of Federal States. The constitution should be republican in form. It should contain a bill of rights. It should not be contrary in any way to the Constitution of the United States, some such thing.

\* → The CHAIRMAN. The essential thing, Governor, about a bill of rights is that it recognizes the superiority of the people to the government.

Governor MUÑOZ-MARÍN. That is right.

The CHAIRMAN. A bill of rights makes the government the agent of the people.

Governor MUÑOZ-MARÍN. That is right.

The CHAIRMAN. And not the people the agent of the government.

Governor MUÑOZ-MARÍN. That is right.

The CHAIRMAN. It is precisely that objective toward which you are working, is it not?

\* Governor MUÑOZ-MARÍN. That is right. Well, we have a bill of rights.

The CHAIRMAN. I know you do.

Governor MUÑOZ-MARÍN. But we would like to make it ourselves.

The CHAIRMAN. You want to retain it?

Governor MUÑOZ-MARÍN. That is right, by our own making. Then the people of Puerto Rico would get together, the legislature would provide for the election of the constitutional convention, they would draft a constitution under these conditions, republican in form, and so forth and so on.

I may say that that would be the kind of a constitution the people of Puerto Rico would see to it was drafted even if it did not have conditions, but I realize that basic conditions must be part of the conditions of an act authorizing them, so that they can never be amended out in the future.

Then that constitution would be submitted to the President and to the Congress, and if found to be, as it should be, democratic in form, and so forth and so on, would then be approved by the Congress. If Congress finds anything wrong with it, then they do not have to approve it when it gets up here. That is a similar procedure as that followed with the Federal States.

\* We would like it to be as similar as possible with Federal States, to maintain this on the high level of collective dignity for the people of Puerto Rico which they deserve. However, the result is not creating a Federal state. It would have no voting representation in Congress.

It is a local result, but locally it is a complete one, and if Congress approves the constitution, then that becomes the constitution of Puerto Rico. Then those parts of the present organic act which now make up what functions as a constitution of Puerto Rico, would thereby cease to be in use any more.

\* Still many parts of the organic act would continue to function. Those parts which are not properly speaking a constitution but rather a statute of relationship, judicial, fiscal and economic between the island of Puerto Rico and the rest of the States would continue to function.

The CHAIRMAN. I think you make your meaning very clear.

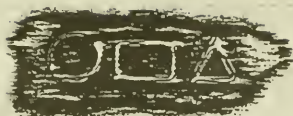
Senator Butler, who was, in the Eightieth Congress, chairman of this committee, has always been a strong proponent of it.

Muñoz  
relationship  
unaltered by  
Constitution





# Status definitions



## STATEHOOD

A vote for statehood is a mandate to demand Puerto Rico's admission as a state of the Union.

Statehood:  
 is a non-territorial status with full political dignity.  
 Will allow us to have the same rights, benefits and responsibilities as the 50 states.  
 is guaranteed permanent union and the opportunity for economic and political progress.  
 is the permanent guarantee of all the rights given by the Constitution of the United States of America — including the preservation of our culture.  
 is the permanent guarantee of American citizenship, our two languages, traditions and ways.  
 is full participation in all federal programs.  
 is the right to vote for the president of the United States and to elect no less than six Puerto Rican representatives and two senators to Congress.  
 is the exercise of our rights as American citizens; we will negotiate the terms of said admission, which will be submitted to the people of Puerto Rico for their sanction.

## COMMONWEALTH

A vote for commonwealth is a mandate in favor of:  
 guaranteeing our progress and activity as well as that of our children within a status of equal political dignity, based on the permanent union between Puerto Rico and the United States.

Commonwealth:  
 is a bilateral pact that cannot be altered except by mutual agreement.  
 Commonwealth guarantees:  
 1. Advocacy of U.S. citizenship;  
 2. Common market, common currency and common defense with the United States; — social economy for Puerto Rico;  
 3. Puerto Rican Civic Committee and our own international sports representation;  
 4. Full development of our cultural identity under Commonwealth we are Puerto Ricans first.  
We will develop Commonwealth through specific proposals to be brought before the U.S. Congress. We will immediately propose to:

- 1. Reformulate Section 936,
- 2. ensuring creation of more and better jobs; extend the supplementary security insurance plan to Puerto Rico;
- 3. obtain nutritional assistance;
- 4. obtain allocations equaling those received by the states;
- 5. market other products of our structure, in addition to coffee.

Any additional change in the relationship will be submitted to the Puerto Rican people before-hand for its approval.

## INDEPENDENCE

Independence is the right of our people to govern themselves on their own land; it is enjoying all the powers and sanctions of sovereignty.

is the exercise of this inalienable right that cannot be renounced. Puerto Rico will be governed by a Constitution that establishes a democratic government, protects human rights and animates our nationality and language.

Independence will give Puerto Rico the powers necessary to achieve development and prosperity, including the powers to protect and stimulate our industry, agriculture and commerce, control immigration, and negotiate international agreements that would expand markets and promote investments from other countries.

A treaty of Friendship and Cooperation with the United States and a process of transition to independence in agreement with legislation already approved by the U.S. House of Representatives and Senate committees will provide for the continuation of acquired Social Security, veterans and other benefits; Puerto Rican and, of those who want to retain it, U.S. citizenship; the right to use our own money or the dollar; free access to the U.S. market; tax incentives for North American investment; federal aid equal to the current amount or at least a decade; and the eventual demilitarization of the country.

SOURCES: New Progressive Party, Proclaim Democratic Party and Puerto Rican Independence Party  
 prepared by The San Juan Star

Mr. DE LUGO. You suggested that the Federal Government sponsor a periodic referendum or a political status referendum. This is an idea that President Bush also put forward. Are you suggesting that we amend the law?

Dr. RAMIREZ DE FERRER. Yes, I suggest that that is a possibility.

As I sat here today listening to the problems of the other territories, I really applaud the interest of this committee and you yourself as you are leaving Congress to leave at least this mechanism in the hands of the people. I mean, as the bill itself says, it has to be triggered by the people anyway, so you are not really forcing anything.

Knowing my frustration, working outside of any kind of a political clout situation and trying at grassroots to get something to happen, you know, the least, the least that Congress can do for these territories and for these people is to give them a mechanism to get something started. I mean, if they don't want to, that is fine. But you know, just don't leave us in limbo, whereas no one can do anything.

And as I heard, you know, the people from Guam, they are going after something, you know, and the other people are trying to get a little bit more of that. But this bill leaves open space for everybody to look for what they need.

And we cannot be compared to Guam. Guam doesn't have a problem with unemployment. Guam doesn't have a problem with per capita. In fact, they have to import labor.

Well, for us, commonwealth doesn't work. But that bill would provide for the mechanism to move forward from where we are. But rather, you know, not doing anything, you know, it doesn't speak well for the United States, and it really hurts the chances of the people in the territories to move on.

Mr. DE LUGO. You are supportive of the Young bill?

Dr. RAMIREZ DE FERRER. I am definitely supportive of the Young bill.

Mr. DE LUGO. All right. Thank you very much.

The gentleman from Puerto Rico.

Mr. ROMERO-BARCELÓ. Thank you, Mr. Chairman.

Welcome. I think your testimony is very complete and very good testimony. I want to congratulate you.

Dr. RAMIREZ DE FERRER. Thank you.

Mr. ROMERO-BARCELÓ. I would just like to ask you some of the questions that we have asked to some of the other people who have testified, to make sure we set the record straight.

The commonwealth support is in the ballot. They spoke about the bilateral pact that cannot be altered except by mutual agreement. Do you know of any such bilateral pact between Puerto Rico and the United States or the Congress of the United States?

Dr. RAMIREZ DE FERRER. No. As a matter of fact, we don't even know how come some of them claim that that actually exists. We have done extensive research, and I am submitting some of the old research that we have done, and I have never been able to find anything that is even similar to any kind of a bilateral pact existing up to now.

And it seems very unlikely, by our experiences, consulting with people both in the Administration and in Congress, that that could

ever happen while we remain part of the United States. I mean, the United States would not enter into a bilateral pact with anybody who is part of the United States.

Mr. ROMERO-BARCELÓ. In the ballot they also said that the Commonwealth guarantees the irrevocable U.S. citizenship. The attorneys have done the studies on citizenship and the irrevocability. What have they indicated to you?

Dr. RAMIREZ DE FERRER. Everytime that a study has been ordered on citizenship for the territories and for Puerto Rico, it has not shown that it can be guaranteed. We have a special law that made us citizens of the United States, and it could be revoked by Congress at any time.

Mr. ROMERO-BARCELÓ. I just want to point out what my point of view is.

We are already grown up. We are our citizens. I don't think Congress could take it away by legislative action. Those that are not born—in other words, Congress can repeal citizenship. Congress can unilaterally repeal that, say, from such and such a date. Is that your understanding?

Dr. RAMIREZ DE FERRER. We agree definitely with that.

Mr. ROMERO-BARCELÓ. Another allegation that they have in the ballot, what they submitted to the people of Puerto Rico: Does the commonwealth guarantee fiscal autonomy for Puerto Rico. Do we have it?

Dr. RAMIREZ DE FERRER. No, we don't. As a matter of fact, even Congress could impose taxes on us at any time.

I heard this morning how the 936 issue came up, and I agree with your position on that. But not even 936. I mean, right now, we support the cigarette tax be applied to Puerto Rico fully and the funds be made available, as you have proposed.

So I mean, really, basically, when you see lobbyists from Commonwealth coming up here and trying to fight against laws that could apply taxes to Puerto Rico, the whole theory of fiscal autonomy just falls on its face.

Mr. ROMERO-BARCELÓ. There is an excise tax, and some of the money is returned to Puerto Rico, but not all. Some of it is kept completely up here.

Dr. RAMIREZ DE FERRER. I agree.

Mr. ROMERO-BARCELÓ. There is also the social security taxes and the payroll taxes, unemployment taxes, and the inheritance taxes for those that live in Puerto Rico but were not born in Puerto Rico.

Dr. RAMIREZ DE FERRER. And the Federal employees who pay both Federal taxes and local taxes.

Mr. ROMERO-BARCELÓ. And Federal income taxes for residents of Puerto Rico and people who were born in Puerto Rico, income from sources outside of Puerto Rico that have to pay Federal income taxes.

Ms. RAMIREZ DE FERRER. That is right.

Mr. ROMERO-BARCELÓ. So there is no such thing as fiscal autonomy. What is represented here in the ballot they were misrepresenting to the people of Puerto Rico?

Dr. RAMIREZ DE FERRER. Yes.



Mr. ROMERO-BARCELÓ. And then they also said that they would develop a commonwealth. They would propose reformulating section 936, ensuring the creation of more and better jobs.

In your contacts with congressmen and senators—you have been here for the past few years, and you came up here when they were discussing the changes to the section 936—was it your impression that Congress was willing to go back and not tax on the 936 and even give them more benefits on 936? Was that your impression?

Dr. RAMIREZ DE FERRER. No, 936 is definitely going to have to fight a long war to survive anything in the next years as budget becomes an issue.

But I also think it is undignified for the people of Puerto Rico to have something like an IRS tax code as part of our destiny. So I thought that was pretty outrageous to put that in the ballot.

Mr. ROMERO-BARCELÓ. They also promised that they would get the extension of supplemental security income to Puerto Rico. In your contacts with the Congressmen and Senators here throughout the last few years, have you encountered a disposition to give to Puerto Rico without a payment of Federal income taxes?

Dr. RAMIREZ DE FERRER. I have been unable to get it, and I have fought for it, and I think it is one of the most unfair things that happens to the people of Puerto Rico because we pay exactly the same social security tax as anybody in the States. So I think probably the one issue that I find is most unfair to the people of Puerto Rico.

Mr. ROMERO-BARCELÓ. But what do you find here in the Congress?

Dr. RAMIREZ DE FERRER. I have not found an environment for anybody to look at this issue and even think of giving it to us.

Mr. ROMERO-BARCELÓ. And the other commitment that was made to the people of Puerto Rico to get their votes on the plebiscites is to obtain the traditional assistance program equal to those received by the States, which would mean an increase of about 35 percent.

Dr. RAMIREZ DE FERRER. I have read about your attempts to do that. For the last 10 years, I have met with people in Ways and Means. I have met with people in the Finance Committee in the Senate. And my attempts have always—I have always heard the same thing that you are hearing. You know, we can't give you any more money. You are not a state. You don't contribute to the system.

That has been a very big frustration. That is one of the reasons that when that legislation was done in Puerto Rico, we objected to the fact that people could put down that legislation in their definition anything that they wanted, and that is exactly what happened. They were free to put down anything that wanted. I am surprised they didn't put refrigerators every week for everybody.

Mr. ROMERO-BARCELÓ. To protect other products of our agriculture in addition to coffee, now we are allowed to put our own tariff on coffee. Do you think that the U.S. Government and the U.S. Trade Representative and the President and the Senate are willing to make changes in the NAFTA and the GATT, the Uruguay Round to allow Puerto Rico to impose its own tariffs on agricultural products?



Dr. RAMIREZ DE FERRER. Definitely not. As a matter of fact, the American farmer has not been able to get anything like that for themselves.

Mr. ROMERO-BARCELÓ. So, in other words, all of these things that we have mentioned were misrepresentations that were made to the people of Puerto Rico by the Commonwealth to get their vote in November 1993?

Dr. RAMIREZ DE FERRER. But that is why I believe that this bill is really appropriate, because it gives a mechanism to move on with solving our status question without the need of getting Congress to look at the issue every time. It leaves it up to us. That is why I really favor that we can be able to look into this issue, and it is in our hands.

Mr. ROMERO-BARCELÓ. Fraudulent inducement to vote is just as much fraud as the fraud in the electoral process, is it not?

Dr. RAMIREZ DE FERRER. It is true, but the only fault I see in this is that we accepted that this bill—we accepted that this bill—it was passed by our own statehood members. That is my problem with it. That we accepted it. We made it, we accepted it, and now we are paying the price for it.

Mr. ROMERO-BARCELÓ. Okay. Thank you very much.

Mr. DE LUGO. You see. You should have stopped just a little earlier.

Mr. ROMERO-BARCELÓ. No, no, I agree with her. I have no qualms with what she has to say at all. I have said it myself.

Mr. DE LUGO. All right. Thank you very much.

Dr. RAMIREZ DE FERRER. Thank you very much.

Mr. DE LUGO. And thank you, Dr. Ferrer, also, and Mr. Aponte. Thank you all.

Mr. DE LUGO. Our final witness today—and there are going to be votes very soon, so we appreciate the patience of Dr. Arturo Guzman who is the co-chairman of I.D.E.A. of Puerto Rico. Mr. Guzman has appeared before this committee in the past, and this is the Institute for the Development of Equality and Advancement of Puerto Rico—I.D.E.A.

And, Mr. Guzman, we have your statement. It is a very brief one, but it has a number of points that are made very succinctly, and I will place your statement in the record in its entirety and invite you to present your testimony.

#### **STATEMENT OF ARTURO GUZMAN, CO-CHAIRMAN OF I.D.E.A.**

Mr. GUZMAN. Thank you and good afternoon, Mr. Chairman, members of the committee.

I would also like to recognize the presence of the staff, Jeffrey Farrow and Manase Mansur.

Allow me, if I may, to respond also to this great, very well-deserved outpouring of love to you upon the possibility of your retirement. It reminds me of a story about this very, very poor family, very Catholic, but they were so poor they had to sleep about ten to a bed. So every evening the mother would invoke the names of lots and lots of saints and martyrs hoping to get them out of poverty until one day their smallest child said, mom, please don't call anybody else because the bed is going to collapse.

So at the risk of having the bed collapse, I would like to join with my wife in wishing you every success and in hoping that you count on us as friends for always.

Mr. DE LUGO. Well, thank you very much, and your wife, Marilyn, has been very helpful to us on housing matters, and please give her my best regards.

Mr. GUZMAN. Thank you, sir.

By definition, any solutions that are made available to try and resolve the territorial burden of the United States become processes of mutual self-determination if they are conditioned to congressional approval. This prerequisite is made unavoidable by the restrictions upon the Congress mandated by the territory clause of the U.S. Constitution.

However, it also creates the following elemental problems that have contributed to condemn to failure, and from inception, any serious effort to finally resolve the Nation's colonial situation:

First, conditioning any changes in status in the political self-determination of a territory to previous or eventual congressional approval contradicts the definitions for decolonization and territorial self-determination provided by the United Nations and other international regulatory entities.

Second, the population of territories that have been conferred U.S. citizenship, such as Puerto Rico, have not been provided full-rank congressional representation and, thus, become de facto constituents of the congressional committees or subcommittees which oversee territorial affairs.

This constitutes a triple conflict of interest in that full-rank Members of the Congress which serve in such committees represent the interests of the natural constituents in their respective States, represent the national interest and also represent the U.S. citizens populating the territories, thus providing substantive cause for the requirement of separate acts of national and territorial self-determination.

To resolve these issues within the framework of the U.S. Constitution and in the spirit of international and decolonization guidelines, the Congress must individually and separately evidence the national as well as the territorial commitment to self-determination.

In essence, two acts of self-determination, one representing the national terms, definitions, and conditions to specific changes within an equally specific time frame, and a second which would represent territorial self-determination by providing the mechanisms for election, selection and mutually mandatory implementation also within a specific time frame.

Unlike the past, these separate but simultaneous acts would also serve the national interest by providing tangible and irrefutable proof to the world community that the Congress is committed to practicing domestically what the United States preaches elsewhere.

By basically meeting these previously stated provisos, H.R. 4442 could be identified as the American Decolonization Act of 1994. However, it could be further enhanced and strengthened if complemented by suggested amendments which I submit to your consideration as follows:

First, the Congress must finally admit that it is not in the national interest to preserve the colonial relationships that would continue to exist by retaining, as a voluntary alternative to this resolution, a territorial option of remaining unincorporated.

The preservation of unincorporated territories unto the next century and millennium would leave the United States vulnerable to the continued and ever-growing intervention of the international community in the domestic affairs of the U.S. It would be both in the national and territorial interest that the options under this resolution should not be voluntary but mandatory within a specified and agreed bilateral time frame after which the United States and/or each of the individual territories could exercise the option of acting unilaterally and without the intervention or consent of the other, thus assuring an irreversible process of decolonization and individual self-determination.

In addition, H.R. 4442 should provide for the explicit inclusion of other options, such as statehood, or any others that would qualify under the following criteria: A, meet international standards for decolonization; and, B, meet U.S. constitutional requirements and parameters.

Second, if this resolution is to prove meaningful to mutual self-determination, the Congress must define beyond a doubt the true and full nature of each of the present territorial relationships. Only this provision would allow the people of the United States, Puerto Rico and other unincorporated territories to make informed choices for their future.

Thus, it becomes special that as part of its prologue or as part of the full text of H.R. 4442 you consider incorporating language that defines in exact, specific, simple and unimpeachable terms the nature of the present relationships including, where applicable, its effect upon the nature and permanence of U.S. citizenship.

Prior to concluding, departing from my written text, in trying to clarify three issues that were brought up at the other hearing. Number one relates to a question posed to the Governor of the U.S. Virgin Islands, the Honorable Alexander Farrelly, concerning the possibility of U.S. citizenship within the context of free association, and of course we know that the other constitutional amendment, that could not be achieved.

The second concerns the question of whether Puerto Rico is or is not an unincorporated territory of the Union. There is a conflict there in that people who claim in this room, this very day, that Puerto Rico was not an unincorporated territory appearing before this committee which otherwise would be no jurisdiction.

The third point has to do with the statement or the question of Mr. Underwood concerning permanent union. When people who advocate statute statehood speak, they do so in a statutory type of semantics. In other words, the type of permanent union that Puerto Rico has or it is claimed to have at present is at the subject and will of the Congress because it is by virtue of the statute Public Law 600.

We who advocate statehood or are otherwise incorporated into a union would have the type of permanent union that is of a constitutional nature and thus is very different. It is not something

that would not be subject to change or modification by future Congresses.

Finally, and in concluding, I had the privilege this afternoon to be the last witness, as I had some years back in San Juan. At the time, I wrote a couple of articles to the main newspapers alluding to the significance that any one person would have in being really the very last witness in a section of the Congress that would resolve a territorial situation.

This afternoon, once again, as I said, I am privileged to be the last witness, although now perhaps the wiser. I know I may not be literally the very last witness, but hopefully, we will be under way in this process of decolonization.

I thank the Chair and the members of the committee.

Mr. DE LUGO. Thank you very much.

[Prepared statement of Mr. Guzman follows:]



**WRITTEN STATEMENT**

**OF MR. ARTURO J. GUZMAN  
CO-CHAIRPERSON OF THE INSTITUTE FOR THE DEVELOPMENT,  
EQUALITY AND  
ADVANCEMENT OF PUERTO RICO (I.D.E.A. OF PUERTO RICO, INC.)**

**ON H.R. 4442**

**SUBMITTED FOR INCLUSION AS TESTIMONY FOR THE RECORD**

**TO**

**THE HOUSE INSULAR AND INTERNATIONAL AFFAIRS SUBCOMMITTEE  
ON THE HEARINGS HELD IN WASHINGTON, D.C.**

**ON MAY 24, 1994**

The Institute for the Development, Advancement, and Equality of Puerto Rico (I.D.E.A. of Puerto Rico, Inc.) is a non-profit corporation, not affiliated to local or national political parties, integrated by private individuals with outstanding professional and academic records for the purposes of research and development on issues pertaining to Puerto Rico.

**MR. CHAIRMAN:**

I respectfully request that the following statement be included in the permanent record of these Hearings, and that it be cross-referenced with our previous testimonies before the House Insular and International Affairs Committee on May 22nd, 1986; July 17th, 1986; March 9th, 1990; and July 13th, 1993, as well as our testimony before the Senate Energy and Natural Resources Committee on June 17th, 1989.

**MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:**

By definition any solutions that are made available to try and resolve the territorial burden of the United States become processes of mutual self-determination if they are conditioned to Congressional approval. This prerequisite is made unavoidable by the restrictions upon the Congress mandated by the "Territory Clause" of the U.S. Constitution. However, it also creates the following elemental problems that have contributed to condemn to failure, and from inception, any serious effort to finally resolve the Nation's colonial situation:

**FIRST:** Conditioning any changes in status in the political self-determination of a territory to previous or eventual Congressional approval contradicts the definitions for de-colonization and territorial self-determination provided by the United Nations and other international regulatory entities.

**SECOND:** The population of territories that have been conferred U.S. citizenship, such as Puerto Rico, have not been provided full rank congressional representation and thus, become "de-facto" constituents of the congressional committees or sub-committees which oversee territorial affairs.

This constitutes a triple conflict of interest in that full-rank members of the Congress which serve in such committees represent the interests of the natural constituents in their respective States, represent the national interest, and also represent the U.S. citizens populating the territories, thus providing substantive cause for the requirement of separate acts of national and territorial "self-determination".

(2)

To resolve these issues within the framework of the U.S. Constitution, and in the spirit of international de-colonization guidelines, the Congress must individually and separately evidence the national as well as the territorial commitment to self-determination.

In essence two acts of self-determination, one representing the national terms, definitions, and conditions to specific changes within an equally specific time-frame, and a second which would represent territorial self-determination by providing the mechanisms for election, selection, and mutually mandatory implementation also within a specific time-frame.

Unlike the past, these separate but simultaneous acts would also serve the national interest by providing tangible and irrefutable proof to the World community that the Congress is committed to practicing domestically what the United States preaches elsewhere.

By basically meeting the previously stated provisos HR-4442 could be identified as "The American De-Colonization Act of 1994". However, it could be further enhanced and strengthened if complemented by the suggested amendments which I submit to your consideration as follows:

**FIRST:** The Congress must finally admit that it is not in the national interest to preserve the colonial relationships that would continue to exist by retaining, as a voluntary alternative to this Resolution, a territorial option of remaining "un-incorporated".

The preservation of "un-incorporated" territories unto the next century and millennium would leave the United States vulnerable to the continued and ever-growing intervention of the international community in the domestic affairs of the U.S. It would be both in the national and territorial interest that the options under this Resolution should not be voluntary but mandatory within a specified and agreed bi-lateral time-frame after which the United States and/or each of the individual territories could exercise the option of acting unilaterally and without the intervention or consent of the other, thus assuring an irreversible process of de-colonization, and individual self-determination.

(3)

In addition H.S. 4442 should provide for the explicit inclusion of other options, such as statehood, or any others that would qualify under the following criteria:

- a. Meet international standards for de-colonization.
- b. Meet U.S. Constitutional requirements and parameters.

**SECOND:** If this Resolution is to prove meaningful to mutual self-determination, the Congress must define beyond a doubt the true and full nature of each of the present territorial relationships. Only this provision would allow the people of the United States, Puerto Rico, and other "un-incorporated territories to make informed choices for their future.

Thus, it becomes essential that as part of its prologue or as part of the full text of HR 4442, you consider incorporating language that defines in exact, specific, simple, and unimpeachable terms the nature of the present relationships including, where applicable, its effect upon the nature and permanence of U.S. citizenship.

I would like to conclude by quoting from my most recent testimony before this Sub-Committee: ".....before you remains a challenge in proving with the open truth that the Congress has made a commitment not repeat the past by not imposing it upon us as a future." Today I add, let us come forward into the future by showing the World that indeed we have the will, the resolve, and the determination to end decades of mutual shame and embarrassment.



Mr. DE LUGO. First of all, you suggest the inclusion of statehood in the bill. Don't you think that the inclusion of political integration covers statehood?

Mr. GUZMAN. It does, but you know, we have this thing placed in Peoria where we also have to think of how it is placed in San Juan. By including the specific option of statehood, this act will not be misconstrued by some in Puerto Rico as a refusal of the possibility of statehood to the people of Puerto Rico.

I do agree with you that the language as it is includes, per se, the option of statehood, but I think it should be included specifically.

Mr. DE LUGO. Also, you said on page 3 that H.R. 4442 should include language that clearly defines the various status options. Well, that was tried. I don't know if you are——

Mr. GUZMAN. We all do. I am referring not to only the definition of the prospective options; I am alluding to the definition of what we have now. You have been at this much longer than I have, and you have been a witness to the endless debate.

Frankly, I cited in my last testimony before you when the plebiscite was being considered, I think it is an obligation of the Congress to come out with an unimpeachable type of definition. You have people coming once again—I will repeat myself—in this room today claiming Puerto Rico is not an unincorporated territory of the United States. And yet they contradict themselves by coming before the very committee which would have no jurisdiction if their position were correct.

Imagine if these are the people that represent that status option and they apparently do not know the truth in the relationship, what could you expect of the common man and woman in the street. Yes, Puerto Rico is an unincorporated territory. Yes, Puerto Rico is subject to the powers of the Congress under the territory clause. And we must start this process of decolonization with the truth.

Mr. DE LUGO. You suggest that Congress act unilaterally if Puerto Rico doesn't. Wouldn't that contradict itself for determination?

Mr. GUZMAN. No, no, Mr. Chairman. Notice in my testimony that I very explicitly said that these should be true processes distinct and separate, although they could be simultaneous, of self-determination.

One involves the people of the United States. In doing that, the people of the United States would find purpose and a commitment to decolonize. That, in itself, is an act of self-determination. We have the people in the 50 States of the Union. The United States is not one to be involved in a territorial, colonial situation any more, and thus, we are going to provide but a means to the territories to choose any alternative they wish.

The second part of that, which is the self-determination of the territories, involves the selection of any of the options that you have to offer or any other so long as they are both meeting the international standards for decolonization, and, secondly, that they are of a constitutional nature, so long as they have some degree of association with the United States.

Mr. DE LUGO. Let me recognize the Resident Commissioner of Puerto Rico.

Mr. ROMERO-BARCELÓ. Thank you, Mr. Chairman.

I want to congratulate you on your testimony and also say that I agree with you that that should be in the bill and should be part of it. Otherwise, as you have expressed, one thing is how it reads from a technical or legal point of view and the other is how it reads in Puerto Rico.

And I just want to close today by just making reference to the petition by the legislature of Puerto Rico that has been referred to today. Because it is specifically the petition by the legislature of Puerto Rico which supports what I have been driving at today and the direction that my questions have been going.

Resolving part of the legislative resolution. This is section 1. Pursuant to the right to petition, guaranteed by the Fifth Amendment of the Constitution of the United States, it is requested on behalf and in representation of the people of Puerto Rico that the 103rd Congress of the United States of America express itself concerning the principles which define the commonwealth formula as submitted to the people of Puerto Rico in the plebiscite held on November 14, 1993.

And then it says, section 2—the principles and elements referred to in the preceding section are those contained in the official definition the commonwealth put forth before the voters participating in the plebiscite.

And then it quotes the definition of commonwealth. Whereas other things that the commonwealth guarantees irrevocable U.S. citizens, that it guarantees fiscal autonomy for Puerto Rico, that it will develop a reformulation of section 936, that they will provide for the extension of supplemental security income to Puerto Rico, that they will obtain a national assistance program equal to those of a State, and that they will have protection for agricultural products besides coffee.

Those are the issues that the legislature of Puerto Rico has. Pursuant to the plebiscite, we want Congress to address the issues and let the people of Puerto Rico know if those things can be obtained reasonably with fiscal autonomy, in other words, without any taxes. And, if not, to say so, so that on another plebiscite the people of Puerto Rico will not be misinformed, will not be misled and will not be fooled into voting for something that can never come about.

I just want to underscore that. That is the petition that we come forward with.

Mr. DE LUGO. Absolutely. And that petition, it raises very specific questions, makes a direct appeal to the Congress. And the Congress in its wisdom, at least through this chairman, was wise enough to decide that we are not going to handle that hot potato all by ourselves. We want to know where the Administration stands, and we want to find out where the President stands.

It is for that reason that the President is putting together a working group to address these issues so that not only Puerto Rico but all of us in the insular areas can get some clear answers from the Federal Government.

It can't be done by one or two of us; that is, just one delegate or one chairman of the committee. What we have to do is put together a consensus.

My God, you know we lost a great opportunity some years ago when the leaders of the three parties came forward, and that took political courage. They came forward. Here they had been enemies and battled out there, but they put that aside. In a patriotic move they came forward to the Congress and said, you know, we want to have this plebiscite. It held together for a long time. But it got closer to election time, and it started to fall apart. Well, it didn't work. But we did make a lot of progress.

Now, we can't do it by ourselves. We have had a good hearing here today, I think a much better hearing than many people expected. I think there has been a fine exchange, you know, very civilized exchange, as it should be here. I think everybody has conducted themselves in a fine manner, and I think this has been helpful to the process. I am now looking to the President to move on this issue so that all of us can work together.

You know, there are divergent opinions here. There are very strong individuals supporting statehood and strong individuals supporting independence and strong individuals supporting commonwealth. We are here to respond to the will of the people of Puerto Rico and also to respond to the will of the people of Guam, of the Virgin Islands and of the other insular areas.

So, with that, I thank you all for this hearing. I thank the Members who have been here today. I thank you, Mr. Guzman again, last, but certainly not least. You made a fine contribution.

Thank you all, and the hearing stands adjourned.

[Whereupon, at 4:20 p.m., the subcommittee was adjourned.]





# APPENDIX

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May 24, 1994

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## ADDITIONAL MATERIAL SUBMITTED FOR THE HEARING RECORD

**Angel A. Valencia-Aponte**  
Attorney At Law  
PO Box 361917  
San Juan, Puerto Rico 00936-1917

Tel 766-5475

The Honorable Don Young  
Congress of the United States  
House of Representatives  
Washington, DC. 20515

June 16, 1994

Dear Congressman Young:

I thank you for the copy your office mailed me of your statement to Congress dated November 22, 1993 on the "Development of Articles of Incorporation for Territories of the United States" and the Bill to provide for consultations for development of such Articles of Incorporation.

I have devoted a substantial part of my life working for the idea of statehood for Puerto Rico. I was state-president for the New Progressive Party Youth Organization in Puerto Rico from 1974 through 1976 and was elected to the City Council of San Juan for a four-year term in Puerto Rico's 1972 elections, in the New Progressive Party slate for City Hall. Currently, I am a supervisory attorney of the National Labor Relations Board in Puerto Rico.

Your statement before Congress and your bill are certainly new avenues that Puerto Rico may very well use in its quest for decolonization. Your bill has a particular significance coming from the sole congressman of one of the most recent territories to achieve statehood.

I am sure you are aware that the quest for statehood has had its own particularities among the several states that have joined the Union after the original States. By way of example, several states rejected the statehood option when initially presented to their citizens. Iowa rejected the statehood option twice. Wisconsin rejected statehood three times in a span of three years. Oregon turned down statehood three times. Statehood was also initially defeated in Washington, Nebraska and Arizona. While it is true that the political situations surrounding the statehood defeat was different in these states from that in Puerto Rico, it certainly marks parallel trails to that which Puerto Rico now faces. It is also certain that the anti-statehood trend in all those former territories changed when Congress signaled "legitimate interest" in admitting the territory as a state. Puerto Rico's political history and sophistication of self-government qualifies it for an advanced stage in

the quest for decolonization. Puerto Rico has outgrown the stage of incorporation and must now face an accelerated consideration of its final destiny.

### **Our Unique History**

Different from the territories taken away from Spain in the Spanish-American war, Puerto Rico's route was unique. While independence was granted to the Philippines and Cuba became a protectorate of the United States, Puerto Rico was treated differently from inception. Puerto Rican patriots led the American troops throughout Puerto Rico hoping to achieve the desired liberation from Spain and the blessings of social justice of which the United States was a model. Puerto Ricans were eventually, in 1917 and in exchange for their loyalty, granted the United States citizenship. In the United States constitutional order, such was really a promise for eventual statehood. Generations of Puerto Ricans grew with two flags and one common citizenship. Ties of affection between these citizens and the citizens of the States grew closer. This affection blended with the blood offered by many Puerto Ricans who fought bravely in the United States wars in defense of democracy along with their brothers and sisters of the States. However, one barrier existed. The Puerto Rican native language was the Spanish. Despite ties of affection, the language placed a natural barrier that impeded the continued building of communication and of trust. Puerto Rico voted in a plebiscite in 1967 and in another in 1993. Statehood was defeated in the latter by a slim two percentile margin.

### **The Anti-Statehood Issues in the 1993 Plebiscite**

The anti-statehood campaign in the 1993 plebiscite was championed by Puerto Rico's Popular Democratic Party. This party, while in political power in 1991, held a referendum wherein voters were asked to vote for certain "democratic rights". The so-called democratic rights, viewed jointly, where an effort to exploit the cultural nationality of Puerto Ricans and constituted a framework for a free associated relationship, which you have described in your statement to Congress as "a form of independence". Such was overwhelmingly rejected by the voters.

In 1993, the issues used against statehood were varied but all had the common thrust of using the fear of change or fear of the unknown. As the formulas presented to the voters had no definitions previously approved by Congress, planting fears and mistrust was a matter of publicity planning. Thus, generally, the anti-statehood campaign promoted the following ideas:

- the United States don't really want Puerto Rico among the several states
- Puerto Rico would lose its Spanish language because the enabling act would include an English-only proviso
- Puerto Rico would lose its international athletic personality
- Puerto Rico would pay high taxes to the federal government

-Many Puerto Ricans would lose their homes because the federal government would tax property and people would not be able to afford it

Corroboration of the fear strategy developed by the anti-statehood Popular Democratic Party surfaced in the midst of the campaign when a memorandum issued by Joseph Napolitan Associates, dated June 30, 1993 and entitled "The Plebiscite campaign" was uncovered. Said memorandum issued for the anti-statehood Popular Democratic Party discussed in detail the fears to be planted in the peoples' minds, particularly the poor.

The referenced memorandum stated at its page 3 that "*[w]e must create fear in the minds of Puerto Ricans about what statehood would mean*". At its page 4, paragraph 20, it stated "*Payment of federal income taxes, although this is not a major issue among the poor voters who won't be required to pay income taxes in any event. (sic) Therefore, in addition to the federal income taxes, we also should raise the spectre (sic) of the sales tax, which most states already have and which could be introduced in Puerto Rico*". Finally, the memorandum of the anti-statehood forces sentenced that "*[w]e must use the fear factor, cast doubt, create skepticism*". And so they did.

#### **The Laboratory Conditions For A Free and Uncoerced Election Were Destroyed**

The vacuum created by the lack of definitions sanctioned by Congress and perverse campaign by the anti-statehood forces, fueled by the financing of the Section 936 companies in Puerto Rico (duly protecting their tax-free safe heaven), destroyed the laboratory conditions necessary for a free and uncoerced choice.

Particularly cruel, was the massive radio campaign by the Popular Party and the Section 936 companies (the anti-statehood binomial) that statehood would mean property taxes to the poor and that poor people would lose their houses which they had acquired with so much sacrifice. Radio, the prime communications vehicle to reach the poor, was saturated with anti-statehood messages which threatened people that a vote for statehood meant losing their homes and their jobs. I invite the Committee to request from appropriate authorities and from radio stations, transcripts of the messages broadcasted and the frequency of those.

The fear and misinformation succeeded. Thousands of loyal Americans were forced, because of the threat of losing their houses and jobs, to vote against statehood.

For this reason, the 1993 plebiscite is not an appropriate gauge to measure statehood sentiment. The people were so coerced and interference with their free choice was so deep, that the laboratory conditions for an uncoerced choice were destroyed. The Joseph Napolitan Associates, Inc. memorandum is enclosed for your perusal. The official report of the State Election Commission showing the percentage for statehood and ELA (46.2% to 48.4%) is included as well as a copy of the plebiscite results as published by the San Juan Star newspaper.

### Recommendation

Puerto Ricans are in the last phase of their path to decolonization. Two things must occur first to help Puerto Ricans take the final decision. First, Congress must show its willingness to admit Puerto Rico as a state when so requested. This, based on the underlying truth that the granting of US citizenship to Puerto Ricans was a promise of statehood. Secondly, although full definitions would avert the process and would limit the span of negotiating an enabling act by the new state, Congress must, at the very least, establish a framework for the options of statehood and others to eliminate the possibility of campaigns based on fear and misinformation. A framework for each option would establish general boundaries to promote an informed and intelligent vote.

I recommend that Congress sponsors a new plebiscite to be held in 1995 or 1997 with the options of statehood, free association as the term is known in international law and complete independence. The framework would eliminate the possibility that the proponents of "free association" or "independence" could argue that American citizenship under these options is permanent and of the same nature as the citizenship of any citizen in the current fifty states. Also, it would do away with tailored and false definitions which are misleading. For example, the anti-statehood forces "ELA" definition in the 1993 plebiscite stated that such status, that is free association or free associated state (whatever that really means), guaranteed the Supplemental Security Income (SSI) and equal footing in the Food Stamp program for Puerto Rico, of course without the payment of federal income taxes. Such was misleading and untruthful.

I propose that the statehood option framework include the following:

- Full, complete and permanent union and American citizenship
- Two languages, the National and State flags and the National and state anthems
- Presidential vote and full congressional representation
- All rights, prerogatives and responsibilities of any State based on the equal footing doctrine
- Right to have a State international athletic representation and a State Olympic Committee in regional (Caribbean and Central American events) international athletic competitions where the United States is not a participant
- A negotiated tax program to allow a phase-in of taxes coupled with special concessions to allow Puerto Rico to reach the same or equivalent economic health as other states in a period of time of 10 to 15 years. This negotiated economic breakthrough into



5

statehood economy will assure Puerto Rico's economic development in a transition period following the attainment of statehood.

I mentioned earlier the language barrier because that has been the number one weapon of the anti-statehood forces. The government of the Popular Democratic Party approved a statute making the Spanish the only official language in Puerto Rico. Such had a two-fold purpose. First, it was a slap in the face to the United States and, second, it sought to yet heighten the language barrier. Puerto Ricans were outraged with this action and as a result the new pro-statehood government eliminated the Spanish only statute. But the Popular Democratic Party also suspended the teaching of English in public schools until the fourth grade and generally torpedoed the teaching of English in the public school system. The purpose was obvious. To have Puerto Ricans speak the least English possible and avert communication between Puerto Ricans and their brother citizens from the States. I have addressed the language issue because it was a primary weapon in the plebiscite. It is clear that any state has the power to choose its official language(s). Such is not an enumerated power reserved to the Federal Government. According to the equal footing doctrine, such is a state power that the State of Puerto Rico would have. Our official languages as a state would be Spanish and English as it is now and as it was enacted into law by the new pro-statehood government of Puerto Rico.

I thank you again for your interest and request that my letter with exhibits be placed on the official transcript of hearings of the committees that may entertain your bill. I also request time to appear and depose before the committee as appropriate when new hearings are scheduled. I thank you on behalf of many Puerto Ricans who are willing to devote their lives to achieve statehood and pray that you continue helping your fellow citizens from the 51st state in this regard.

Very Truly Yours,



Angel A. Valencia-Aponte

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 JOSEPH NAPOLITAN ASSOCIATES, INCORPORATED
 

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## MEMORANDUM

June 30, 1993

To: Miguel Hernández Agosto  
Celeste Benítez

From: Joe Napolitan

Re: The plebiscite campaign.

1. I thought it would be useful for you to have my views on the plebiscite campaign even before we have the poll results in hand just to make sure we are on the same wave length and agree on a general approach to the campaign.
2. Logistically, the PNP is in a stronger position than we are at this moment:
  - a. They control the governor's office and the legislature.
  - b. Rossello is popular and we have no spokesperson of similar position or credibility.
  - c. The PNP is better organized and better funded.
  - d. The PPD still is recovering from the shock of last year's electoral defeats, party morale is not high, headquarters staff has been reduced, money is in short supply, and we are late getting started.
3. Nevertheless, the situation is far from hopeless. While I do not have past polls in front of me as I write this, my best recollection is that the only time statehood has won a majority of votes in a survey was when respondents were asked to vote yes-or-no on statehood. In all other instances, when respondents were asked to select among the three status options, statehood never won a majority and never polled more votes than ELA. Sometimes statehood came within a few points of ELA but most of the time ELA ran anywhere from 8 to 10 points ahead of statehood.
4. One important reason for this is that a consistent 15 per cent of those who identify themselves as PNPs also say they prefer ELA to statehood. The percentage of Populares who prefer statehood is much lower, around 3 or 4 per cent.
5. Even when Rafael's stock was at its lowest and his government unpopular,

LONDON SW7 1PL

55 Rutland Gate  
Tel 584-4254  
Fax 587-7473

NEW YORK 10003

Medeiros Associates, P.A., Inc.  
51 Park Avenue  
Tel 212/607-1527  
Fax 212/607-1524

SPRINGFIELD, MA 01103

10 Statehouse Drive  
Tel 413/733-1232  
Fax 413/733-1733

Plebiscite, page 2

ELA still was preferred over statehood by a substantial margin.

6. It is possible the attitudes of Puerto Ricans have changed since last year's elections but I am willing to bet that even with all the problems we have ELA runs no worse than even with statehood at this time.
7. Thus we start out with a solid base -- not enough to assure victory in the plebiscite by any means, but enough to assure that we will be competitive from the start and have a reasonable chance of winning.
8. As you will remember, in 1976 we created a pro-ELA committee during Rafael's first campaign for re-election and it produced very little. In 1980 we shifted and put our emphasis in an anti-statehood campaign and that proved to be much more successful.
9. To me, this means that in this year's campaign we must put more emphasis on the negative aspects of statehood than in trying to sell the positive aspects of ELA.
10. We must take the initiative in this campaign. We must take the attack to the PNP. We must put them on the defensive.
11. Let us consider the 1991 referendum on the proposed constitutional amendment for a moment. That was a winnable campaign. The main reason we lost, in my opinion, is that Rafael got a little greedy: instead of concentrating simply on issues which had virtually no opposition, he added controversial provisions to the proposed amendment which opened the door for the PNP to attack, which it did, vigorously and effectively.
12. The three provisions of the referendum which were accepted by an overwhelming majority of voters in the polls were these:
  - a. There could be no change in status without an election in which voters could express their views.
  - b. All three options had to be included in any plebiscite on status.
  - c. There could be no change in status unless it were approved by a majority of voters in a plebiscite.
13. If we had stayed with these three proposals, I am confident we could have won that election. But the issue was clouded by the inclusion of other provisions (guaranteed citizenship, participation in international athletic competition, etc.) that made us vulnerable to PNP attacks.

- a. We must keep our message simple.
  - b. We must create fear in the minds of Puerto Ricans about what statehood would mean.
  - c. We must identify statehood's most vulnerable points and attack them sharply.
  - d. We must use emotion as a weapon. Emotional appeals always are more effective than logical presentations.
  - e. We must respond vigorously and immediately to every PNP charge with a counterattack of our own and not allow ourselves to be put on the defensive.
  - f. We must let people know that statehood is not heaven. This can be accomplished through testimonials from Puerto Ricans who live in mainland states.
15. The three major divisions of any modern political campaign are finance, organization and media.
  16. The responsibility of the finance committee is to raise the funds which will allow us to conduct a competitive campaign.
  17. In this plebiscite, the last thing the organization can do is to make certain Populares support ELA and will get out and vote for it.
  18. Seventy five or 80 per cent of the voters probably already have decided how they will vote; this leaves 20 to 25 per cent as the 'swing' vote, and it is the responsibility of our media campaign to convince as many of these swing voters as possible to reject statehood and vote to retain ELA.
  19. These swing voters include:
    - a. Populares who may have drifted away from the party in the past two or three years but may still be inclined toward ELA.
    - b. Voters who are not affiliated with any of the political parties. These tend to be less involved, less interested, less likely to vote.
    - c. Nominal PNPs who are hesitant about voting for statehood and are satisfied with ELA as a form of government.
    - d. Voters with no strong convictions in any direction or for any form of status who may be influenced by the appeals of the campaigns.



Plabiscira, page 4

20. The poll now in the field will give us a clear picture of what voters fear most about statehood but based on past surveys, these seem to be statehood's greatest liabilities:

- a. Loss of autonomy and identity. Puerto Ricans are a proud people who consider themselves Puerto Ricans first and Americans second.
- b. Payment of federal income taxes, although this is not a major issue among poor voters who won't be required to pay income taxes in any event. Therefore, in addition to federal income taxes, we also should raise the spectre of the sales tax, which most states already have and which could be introduced in Puerto Rico.
- c. Loss of Section 936. The actions of the Clinton Administration may have taken some of the steam out of this argument but, on the other hand, even such ardent statehooders as Rossello have been forced to fight to preserve Section 936 and recognize its importance to the Puerto Rican economy.
- d. Sacrificing control of our destiny to the federal government.
- e. Loss of Puerto Rico's privilege to compete in the Olympics and other international athletic events.

21. While I much prefer to see the poll results before making any definitive strategic recommendations, at this time my inclination is to suggest the theme of our campaign should be along these lines:

Statehood costs us too much.

The price we would have to pay for statehood is too high.

We would have to give up too much.

Little to gain, much to lose.

22. We must try to convince voters that they would be giving too much, paying too high a price, losing more than they would stand to gain if Puerto Rico became a state. We must use the fear factor, cast doubt, create skepticism.

23. ELA also has its vulnerabilities, of course, and there are many strong appeals that can be made on behalf of statehood, and the PNP has demonstrated skill in using these in the past. One of my great personal fears, which we are testing in the survey, is that voters may believe that only statehood really guarantees American citizenship. It would not surprise me at all if this became one of the major thrusts of the PNP campaign.

Plebscite, page 5

24. In any event, communications, especially paid advertising, is critical to the success of our campaign. I understand your inclination is not to use Angel Collado Schwartz's agency to handle the advertising in this campaign. This is your decision but before you cut the link with Badillo there are some factors to consider, including these:
  - a. This will be a short campaign with little time for preparation. Angel knows all of the players intimately and has worked for the party since 1980. It will be difficult for a new agency to achieve this degree of intimacy in a short campaign.
  - b. Badillo is a big agency with a lot of resources that can act quickly and has demonstrated its ability to do so in the past.
  - c. Angel himself has a good political mind and has a strong motivation because the party owes him so much money.
  - d. There may be a loyalty factor to consider: is it fair for the party to hire a new agency, which certainly will demand money up front, when it already owes so much to Badillo?
25. One problem that I have had with Badillo and Angel in the past is that they have assumed too much responsibility for determining strategy rather than executing strategy. I was not happy with some of the approaches Angel took in Victoria's campaign, and told him so at the time. I especially was displeased with the series of ads which implied that Rossello could not do the things he promised to do without exhorbitant tax increases. This approach worked for the Conservative Party in Great Britain because the Labor Party leader, Neil Kinnock, was not trusted by a majority of the British voters. It did not work in Puerto Rico because Puerto Ricans held no similar distrust of Rossello.
26. If you decide to use Badillo again, I suggest you insist on tighter control over strategy. (This is true even if you use another agency.)
27. I have no problems personally working with another agency if this is your choice. You should just make certain this agency can perform on the same level as Badillo and its directors are politically astute.
28. Whatever decision you make, it should be made soon. One of the meetings I would like to have on my July 13-15 trip is with the advertising agency you select to do the campaign, because there is a lot to do and not much time to do it in.
29. The post election survey conducted after last November's election indicated a lot of people made up their minds much earlier than we had anticipated. The PNP recognized early in the campaign that Rossello was an unknown quantity, so they produced a series of feel-good image-enhancement ads about him that undoubtedly quelled many fears and helped enlist early support.

Plebiscite, page 6

30. The situation is different this time, of course, but I do not think we can wait until the final weeks of the campaign to launch our attacks on statehood. We must create doubts about statehood as early as we can and force the PNP into a defensive posture; otherwise, they will get the jump on us as they did last year.
31. Unpaid media is going to be a problem for us. El Nuevo Dia is the most powerful news outlet in Puerto Rico and probably will push hard for statehood. It is a major weapon for the PNP in this campaign, and it is naive of us to believe they will give us fair treatment in the campaign.
32. This means we need to go over and around them to reach voters directly through our paid media, which is expensive.
33. In the next few weeks, the emphasis should be on raising money and getting the staff and organization in shape. By then we will have the poll results; know exactly where we stand going into the campaign, and be in a position to design strategy and write a campaign plan.

COMISION ESTATAL DE ELECCIONES  
OSIPE

RESULTADOS ISLA PARA EL PLEBISCITO  
SOBRE EL STATUS POLITICO DE PUERTO RICO  
14 DE NOVIEMBRE DE 1993

COMISION ESTATAL DE ELECCIONES  
OSIPE  
93 NOV 15 AM 10:59



FECHA : 18/11/93  
HORA : 13:44:41  
PROGRAMA: PIV96D

COMISION ESTATAL DE ELECCIONES

PAGINA 1

PLEBISCITO SOBRE EL STATUS POLITICO DE PUERTO RICO  
14 DE NOVIEMBRE DE 1993

RESULTADOS  
ISLA

ESTADIDAD	VOTOS	%
ESTADO LIBRE ASOCIADO	785,859	48.2
	823,258	48.4
INDEPENDENCIA	75,253	4.4
NO ADJUDICADO	3,848	0.3
EN BLANCO	4,108	0.3
ABANDIDOS A MANO	8,973	0.5
TOTAL	1,701,586	100.0

ELECTORES INSCRITOS 2,312,912  
UNIDADES REPORTADAS 1,784 DE 1,784



**COALITION FOR PROTECTION OF PUERTO RICAN CULTURE AND NATIONALITY**

605 Blake Road  
Edina, MN 55343  
(612) 931-9710

June 14, 1994

Representative Don Young  
2331 Rayburn House Office Building  
Washington, DC 20515-0201

Dear Representative Young:

This letter outlines the "Coalition for Protection of Puerto Rican Culture and Nationality" position on H.R. 4442 currently undergoing review by the Insular Affairs Sub-Committee. The "Coalition" feels, as will be discussed further, that although the bill is too global and non-specific to Puerto Rico's situation, it will focus Congressional attention on the insular areas.

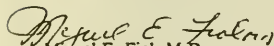
The "Coalition" purpose includes bringing to the public's attention Puerto Rico's current quasi-colonial form of government. We have for the last year been involved in promoting forums and discussion in Minnesota on a series of congressional initiatives - #H.R. 4765, S712, and S244 - and specially Puerto Rico Pleisbicite of 1993. All of these have been attempts to resolve the political status issue of the island. Our group feels that an enhanced Commonwealth, that fulfills International law requirements of a "free association" and Independence are the only options that respects our identity, culture, and ultimately our Nationality. Thus, we are a "Coalition" of two political solutions and clearly represent a majority position in both U.S.A. and Puerto Rico.

We believe that Puerto Rico's political status issue is very unique and is beyond the scope of your legislation. However, H.R. 4442 could be the beginning of a serious move by Congress to resolve the status issue. This could lead to specific legislation to legitimize Puerto Rico's vote in favor of the enhanced Commonwealth option. We hope that H.R. 4442 does not run the fate of other pieces of legislation that have attempted to settle this issue, i.e., H.R. 4765, S712, S244, and prior, in 1959, the Fernos-Murray Bill. The failure of these bills, we believe, attest to an indifference by Congress to resolve this long-standing problem and a desire to maintain a power differential on the island.

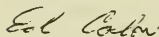
Representative Don Young  
May 31, 1994  
Page Two

We thus support your initiative to focus Congressional attention on the need for more self-government for the insular areas.

Sincerely yours,

  
Miguel E. Fiol, M.D.  
Coordinator

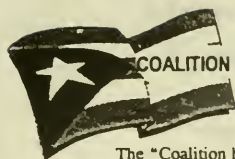
  
Mr. Alberto Monserrate

  
Mr. Ed Colon

Ms. Elsa Vega-Perez

Enclosure: Position Paper of the "Coalition"





## COALITION FOR PROTECTION OF PUERTO RICAN CULTURE AND NATIONALITY POSITIONS ON PUERTO RICO'S STATUS

The "Coalition" has agreed on the following principles which define its position on the status issue:

1. Puerto Ricans have a distinct culture and nationality that needs and must be preserved.
2. Statehood represents a threat to the survival of the Puerto Rican culture and nationality.
3. The Commonwealth formula, as currently established by Public Law 600 and the Federal Relations Law, does not meet internationally accepted norms for a "free association" -- i.e., the principles of sovereignty and delegation are not present and Commonwealth needs to be enhanced or substantially modified in order to be acceptable to us and we believe to the international community.
4. The U.S. Congress has the moral obligation of restructuring Commonwealth to meet the minimum requirements of international law for Puerto Rico's right to self-determination and sovereignty.

The "Coalition" feels that the present debate in Congress regarding any possible enhancement/modification of the current Commonwealth status could benefit from the perspective of the mainland Puerto Ricans and specifically from Minnesota's Puerto Ricans. We feel that enhancement/modification of Commonwealth should focus on several areas as follows:

1. Clarification of the political relationship between U.S. and Puerto Rico and removal from the "Territorial Clause" of the U.S. Constitution (Article IV, Section 3) and elimination of veto power of Congress on Puerto Rican laws. A recent decision by the 11th Circuit Court of Appeals has established that Puerto Rico falls in the Territorial Clause.
2. Protection of Section 936 of U.S. Internal Revenue Code to insure Puerto Rico's economic future, especially in view of the recently approved NAFTA. Any partial or total phasing out of Section 936 would be devastating to the Puerto Rican economy and would create a major problem for Puerto Rico with a massive exodus of Puerto Rican skilled laborers and professionals to the mainland.
3. Federal laws, as they apply to Puerto Rico, should be amended and made flexible to meet the needs of an overpopulated, developing tropical country by giving Puerto Ricans control over import taxation, local products' protection, maritime and immigration laws, as well as, the right to establish commerce with other countries and make its own international treaties.
4. Structuring of a "Bilateral Pact" that eliminates the existing political subordination of Puerto Rico to the U.S., and that respects the identity, culture and the right to self-determination and the Sovereignty of a unique people who want to continue a political relationship with the U.S. but on an equal basis, without vestiges of colonialism.

**Juventud Autonomista Puertorriqueña**

Interamericana 782

University Gardens Rio Piedras, PR 00925

Tel. (809) 767-4501

May 23, 1994

Hon. Ron de Lugo  
Chairman  
Insular and International Affairs Sub-Committee  
House of Representatives, Washington D.C.

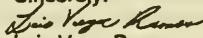
Dear Mr. De Lugo:

We have read the clarifications on the legislative Intent inserted by Hon. Don Young with regard to the bill H.R. 4442 presented for the self-determination of territories under United States possession. In view that said clarifications of intent are directed to harmonize the bill under consideration with International Law and United Nations requirements for the decolonization of territories, this organization favors that such clarifications be maintained. Moreover, in view of the importance of this clarifications we suggest that the bill presented by Rep. Young be amended to include in its text the clarifications of intent he has included in the Congressional Record. Such amendment would undoubtedly guarantee that the bill complies with International Law.

This organization would also like to suggest that the Committee evaluate and finally clarify if Puerto Rico continues to be a territory of the United States. This is important for two reasons. First, if this Committee were to resolve that Puerto Rico ceased being a territory in 1952 the bill under consideration would not apply to Puerto Rico. This is the position that the Popular Democratic Party would present today at the hearings and its supported by First Circuit case law. There are however several circuits, most recently the Eleventh Circuit, that have rejected the First Circuit position holding that Puerto Rico is still a territory. Accordingly, a clarification by the Committee, of the nature of the political relationship between Puerto Rico and the United States, would not only be practical, but of great importance by providing guidance for future judicial decisions.

Finally, we will like to inform the Committee that the Juventud Autonomista Puertorriqueña is most willing to discuss further, personally or in writing, the points addressed in this letter. If the committee so desires please contact us at the above address or telephone at your convenience.

Sincerely,

  
Luis Vega Ramos  
President

REPUBLICA ASOCIADA ( REPUBLICA DEMOCRATICA PUERTORRIQUEÑA)  
 CREADOR: MANUEL ROMAN VALENTIN - 28 DE ABRIL DE 1980  
 CUARTO CANDIDATO A GOBENADOR, 1992, NOMINACION DIRECTA

APARTADO 417 MAYAGÜEZ, PUERTO RICO 00681-417 TEL.(809)833-5810

May 16, 1994

The Honorable Don Young, R - Alaska  
 C/O The House of Natural Resources Committee  
 U. S. HOUSE OF REPRESENTATIVES  
 Washington D.C. 20515

REF.: Hearing for May 24,1994  
 Incorporation Bill to Grant  
 Puerto Rico a 4th Option

Sir:

THE FOURTH POLITICAL STATUS FOR PUERTO RICO

PUERTO RICO THE FIRST ASSOCIATED REPUBLIC OF THE UNITED STATES  
 PUERTO RICANS AND AMERICAN CITIZENS BY BIRTH,

I am pleased to send copies of my letters wrote to Honorable Governor of Puerto Rico, Pedro Roselló González, July - September 1994, for our plebiscite of November 14, 1994. Copies were sent to President Bill Clinton, Puerto Rico's Electoral Commission and presidents of the three political parties of Puerto Rico, including, the Complete Definition of the Associated Republic..

Also, I enclose the Complete Definition of the ASSOCIATED REPUBLIC, dated January 19,1991, requested by Honorable Bennett Johnston for the plebiscite of 1991-1992 (ABORTED). Copies of the Complete Definition were sent to Honorable Ron De Lugo to include the ASSOCIATED REPUBLIC for the above plebiscite of 91-92.

MAIN DEFINITION OF THE FIRST ASSOCIATED REPUBLIC OF THE UNITED STATES, a requirement for the plebiscite of November 14,1994:

Transfer of sovereignty, Permanent Union, Presidential Vote for the President of the United States, if approved by Congress. Our TWO nations, Presidents, Constitutions, languages. Common Citizenship, Currency, Market, Security and Common Defense.

The culmination of the Commonwealth to its maximum self-government, Political and Economic Development with our two Presidents.

The Governor (plebiscite of November 1994) will become President of Puerto Rico, General Elections after 1996 for Election of our President from the political parties , including independent candidate ( DIRECT NOMINATION, UNTIL PUERTO RICO becomes a Federal State of the Union( Statehood Yes or No in the future) or until the people of Puerto Rico resign the U. S. Citizenship for an absolute independence.

The Fourth Status Formula, " PUERTO RICO THE FIRST ASSOCIATED REPUBLIC OF THE UNITED STATES " will strengthen even more Puerto Rico's relationship with the United States with a maximum of political dignity, stability and a very strong bond to defend individual liberty, democracy, Human Rights and justice.

The definitions of the ASSOCIATED REPUBLIC was included in the record of the subcommittee's hearing on legislation to authorize a referendum in Puerto Rico (1991).

Our Plebiscite of November 14, 1994 was a falsehood and fraud. It was not the free will and self determination of the people of Puerto Rico to our future political status in our relationship with the United States. The ASSOCIATED REPUBLIC ( REPUBLICA ASSOCIADA ), the only democratic independence, was not included in the above plebiscite of November 1994.

The fourth political status formula will be the self determination of the people of Puerto Rico if approved in a Referendum, plebiscite or general elections. However, the status must be in ISSUE in general elections for governor. The people of Puerto Rico has the political rights to propose a new status formula in our future relationship with the United States.



THE Honorable Don Young

Page 3

May 16, 1994

The Commonwealth of Puerto Rico has not been a colony of the the United States since 1952 under the definition of commonwealth and sovereignty. It became " THE FIRST ASSOCIATED REPUBLIC OF THE UNITED STATES IN 1952.

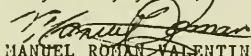
DEFINITION of commonwealth = REPUBLIC; even though the people may hold only formal and not actual sovereignty: The fifteen (15) former republics of the Soviet Union did not have actual sovereignty, They also had two Presidents. Also, the former republics of Yugoslavia.

Public Law 600 Primarily recognized the right toward the maximum of self-government and determination by the people of Puerto Rico.

It is essential that the dignity and self respect of the people of Puerto Rico be a matter of the highest consideration for future plebiscite or referendum in our relationship with the United States.

The ASSOCIATED REPUBLIC of the United States status formula might also applied to other territories.

Very truly yours,



MANUEL ROMAN VALENTIN, CREATOR  
OF THE ASSOCIATED REPUBLIC

FC

The President of the United States

The Honorable Governor of Puerto Rico

The Honorable Resident Commissioner of Puerto Rico

The Honorable Representative Nydia Velázquez, N.Y.

The Honorable Representative José Serrano, N.Y.

The Honorable Representative Luis Gutiérrez, Chicago

REPUBLICA ASOCIADA ( REPUBLICA DEMOCRATICA PUERTORRIQUEÑA)  
 CREADOR: MANUEL ROMAN VALENTIN - 28 DE ABRIL DE 1980  
 CUARTO CANDIDATO A GOBENADOR, 1992, NOMINACION DIRECTA

APARTADO 417 MAYAGÜEZ, PUERTO RICO 00681-417 TEL.(809)833-5810

8 de septiembre de 1993

Honorable Pedro Roselló González  
 Gobernador de Puerto Rico  
 La Fortaleza  
 San Juan, Puerto Rico

Honorable Gobernador:

REF. REPUBLICA ASOCIADA no se ha  
 incluido, plebiscito de 14/11/93  
 correspondencia de 4/7/93

MOMENTO HISTORICO PARA PUERTO RICO - ESTADO LIBRE ASOCIADO (ELA)  
 LO PEOR DE LOS DOS MUNDOS EN ESTE PLEBISCITO (¿ OTRA CUBA ?)  
 NO SE INCLUYO LA INDEPENDENCIA DEMOCRATICA A NUSTRO STATATUS POLITICO

PUERTO RICO (ELA) se ha convertido en una dictadura antidemocrática y discriminatoria bajo la bandera de Estados Unidos por el poder ejecutivo del PNP y Comisión Estatal de Elecciones. La única independencia democrática, REPUBLICA ASOCIADA, no fué incluida en este plebiscito del 14 de noviembre de 1993.

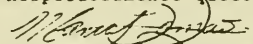
Todas las encuestas, consultas, información, entrevistas entre los presidentes de partidos para este plebiscito han sido y seguirán siendo engañosas, discriminatorias y falsas a la libre determinación del pueblo de Puerto Rico, incluyendo debates políticos, por:

Los presidentes de los tres partidos políticos, prensa del país y del extranjero, televisión, noticieros, radio, panelistas y analistas políticos hacia nuestro atatus, incluyendo la elección a gobernador en 1992 y en el abortado plebiscito de 1989-92..

Ninguno de los tres partidos políticos perdería en este plebiscito, incluyendo a los afiliados y no afiliados de incluirse REPUBLICA ASOCIADA y su definición en la papeleta electoral de noviembre del '93. Se incluye definición de dos párrafos sometido a la Comisión Estatal de Elecciones el 28 de julio de 1993.

ESTE PLEBISCITO DEBIO HABER SIDO: ESCOGER ENTRE LA CUIDADANIA DE ESTADOS UNIDOS, O CUIDADANIA DE PUERTO RICO, INDEPENDENCIA ABOSLUTA

Respetuosamente quedo de Ud.

  
 MANUEL ROMAN VALENTIN

FC:  
 The President of the United States  
 Comisión Estatal de Elecciones  
 Presidente PPD  
 Presidente PIP

REPUBLICA ASOCIADA ( REPUBLICA DEMOCRATICA PUERTORRIQUEÑA)  
CREADOR: MANUEL ROMAN VALENTIN - 28 DE ABRIL DE 1980  
APARTADO 417 MAYAGÜEZ, PUERTO RICO 00681-417 TEL.(809)833-5810

28 de julio de 1993

Estado Libre Asociado de Puerto Rico  
Comisión Estatal de Elecciones  
Apartado 2353  
Old San Juan  
San Juan, P. R.

Honorable Presidente C.E.E.:

REF. Definición Básica de la  
REPUBLICA ASOCIADA, Plebiscito  
14 de noviembre de 1993

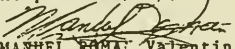
La definición básica de la cuarta fórmula plebiscitaria de la  
REPUBLICA ASOCIADA, de incluirse en este plebiscito de 14 de noviembre  
de 1993, es la siguiente:

REPUBLICA ASOCIADA - UNICA INDEPENDENCIA DEMOCRATICA  
PUERTORRIQUEÑOS Y CUIDADANOS DE ESTADOS UNIDOS POR NACIMIENTO

- 1) PUERTO RICO - PRIMERA REPUBLICA ASOCIADA DE ESTADOS UNIDOS. TRANSFERENCIA DE SOBERANIA, UNION PERMANENTE, VOTO PRESIDENCIAL DE ESTADOS UNIDOS DE SER APROBADO POR EL CONGRESO, NUESTRAS DOS PATRIAS, NACIONES, CONSTITUCIONES, PRESIDENTES, IDIOMAS Y BASES MILITARES. CUIDADANIA COMUN, MONEDA, MERCADO, SEGURIDAD Y DEFENSA COMUN. LA CULMINACION DEL ESTADO LIBRE ASOCIADO A SU MAXIMO DESARROLLO POLITICO Y ECONOMICO CON NUESTROS DOS PRESIDENTES.
- 2) EL GOBERNADOR, EN ESTE PLEBISCITO, SE CONVERTIRA EN PRESIDENTE DE PUERTO RICO. ELECCIONES GENERALES DESDE 1996, ELECCION DE PRESIDENTES DE PUERTO RICO ( PNP, PPD,PIP O CANDIDATO INDEPENDIENTE), HASTA QUE PUERTO RICO SEA ESTADO FEDERADO CON SUS OBLIGACIONES, DEBERES Y LEALTAD. PLEBISCITO; ESTADIDAD SI O NO EN EL FUTURO. INICIAR UN PROCEDIMIENTO O UNA FORMULA PARA EL DESARROLLO A LA CARGA FINANCIERA DE LA UNION AMERICANA, HASTA QUE LOS PUERTORRIQUEÑOS RENUNCIEN LA CUIDADANIA DE LOS ESTADOS UNIDOS HACIA UNA INDEPENDENCIA ABSOLUTA.

Esperando que en nuestro sistema democrático se incluya la cuarta fórmula plebiscitaria, Independencia Democrática, en esta consulta o plebiscito en nuestras relaciones políticas con los Estados Unidos.

Respetuosamente,

  
MANUEL ROMAN Valentin  
CREADOR REPUBLICA ASOCIADA

REPUBLICA ASOCIADA ( REPUBLICA DEMOCRATICA PUERTORRIQUEÑA )  
 CREADOR: MANUEL ROMAN VALENTIN - 28 DE ABRIL DE 1980  
 APARTADO 417 MAYAGÜEZ, PUERTO RICO 00681-417 TEL. (809)833-5810

9 de julio de 1993

Estado Libre Asociado de Puerto Rico  
 Comisión Estatal de Elecciones  
 Apartado 2353  
 Old San Juan Station  
 San Juan, Puerto Rico

Honorable Presidente C.E.E.:

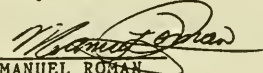
REF: Notificación de participación en el plebiscito del día 14 de noviembre de 1993.

El suscribiente, MANUEL ROMAN, único creador de la REPUBLICA ASOCIADA, única Independencia Democrática, notifica mi intención de participar en el plebiscito o consulta del día 14 de noviembre de 1993.

Se adjunta correspondencia del día 4 de Julio de 1993 sometida al Honorable Gobernador, Dr. Pedro Roselló González, solicitando se incluya la cuarta fórmula plebiscitaria en este plebiscito. También se adjunta el emblema y definición completa de 1991 de la REPUBLICA ASOCIADA. Dicha definición será traducida en español.

Esperando que en nuestro sistema democrático, se incluya la cuarta fórmula plebiscitaria en esta consulta o plebiscito.

Respetuosamente,

  
 MANUEL ROMAN  
 REPUBLICA ASOCIADA



PUERTO RICO  
PRIMERA REPUBLICA  
ASOCIADA DE  
ESTADOS UNIDOS

REPUBLICA ASOCIADA ( REPUBLICA DEMOCRATICA PUERTORRIQUEÑA )  
 CREADOR: MANUEL ROMAN VALENTIN - 28 DE ABRIL DE 1980  
 APARTADO 417 MAYAGÜEZ, PUERTO RICO 00681-417 TEL. (809)833-5810

4 de julio de 1993

Honorable Pedro Roselló González  
 Gobernador de Puerto Rico  
 La Fortaleza  
 San Juan, Puerto Rico

Honorable Gobernador:

REF. Consulta sobre status 14  
 de noviembre de 1993 - Cuarta  
 Formula plebiscitaria

UNICA INDEPENDENCIA DEMOCRATICA EN ESTA CONSULTA O PLEBISCITO

PUERTO RICO - PRIMERA REPUBLICA ASOCIADA DE ESTADOS UNIDOS  
 PUERTORRIQUEÑOS Y CUIDADANOS DE ESTADOS UNIDOS POR NACIMIENTO

LA CULMINACION DEL ESTADO LIBRE ASOCIADO A SU MAXIMO DESARROLLO  
 POLITICO Y ECONOMICO: TRANSFERENCIA DE SOBERANIA, NUESTRAS DOS  
 PATRIAS, NACIONES, CONSTITUCIONES, PRESIDENTES E IDIOMAS

HASTA QUE PUERTO RICO SEA ESTADO DE LA UNION AMERICANA CON SUS  
 OBLIGACIONES, DEBERES Y LEALTAD - EN PLEBISCITO SI O NO EN EL  
 FUTURO, O, HASTA QUE SE RENUNCIE LA CUIDADANIA DE ESTADOS  
 UNIDOS HACIA UNA INDEPENDENCIA ABSOLUTA  
 LA RENUNCIA DE LA CUIDADANIA TARDARIA DE 100 A 500 AÑOS O MAS

El que suscribe, MANUEL ROMAN, único creador de la REPUBLICA  
 ASOCIADA, cuarta formula plebiscitaria, muy respetuosamente  
 solicita de Ud. y de su gobierno democrático, se incluya en la  
 consulta o plebiscito del 14 de noviembre de 1993 y se incluya  
 en el comité de diálogo sobre status de existir alguno.

Se solicita se provea igualdad de fondos para las cuatro  
 formulas: Estadidad, Independencia Socialista, Estado Libre  
 Asociado e Independencia Democrática en sus campañas y orien-  
 tación de sus definiciones completas a los electores.

En la Elección general de noviembre de 1992 fui el CUARTO  
 CANDIDATO a gobernador, NOMINACION DIRECTA, Republicano, candidato  
 independiente ( y Presidente de Puerto Rico en 1993), según la  
 definición completa de la REPUBLICA ASOCIADA de enero 1991, requi-  
 sito para el plebiscito de 1991 - 1992 ordenado por el Congreso.

La definición completa de 1991 de la REPUBLICA ASOCIADA, única  
 INDEPENDENCIA DEMOCRATICA, será la formulada para este plebiscito  
 pero en español. Dicha definición fue sometida a los Congresistas  
 Johnston, Ron De Lugo y a otros Congresistas para cualquier plebis-  
 cito ordenado por el Congreso o la Legislatura de Puerto Rico.

Honorable Gobernador - 2

4 de julio de 1993

Se adjunta fotocopia de dicha definición. Se cumplió con los informes de Ingresos y Gastos a la Comisión Estatal de Elecciones en dicha candidatura independiente a gobernador.

Esta consulta o plebiscito NO estará en " ISSUE ". POR TANTO: No será un mandato de la mayoría del pueblo de Puerto Rico al Congreso de los Estados Unidos hacia la Estadidad, Estado Libre Asociado e Independencia, de no especificarse mayoría (51 por ciento o más) por la Legislatura de Puerto Rico en cualquier Ley de Consulta o Plebiscito sobre status.

El derecho internacional en este plebiscito, o en cualquier consulta o plebiscito, no aplicaría a Puerto Rico. El 95 por ciento, o más, somos ciudadanos de Estados Unidos por nacimiento hasta que se renuncie por una independencia absoluta. La Estadidad sería otra formula de independencia. El estado 51, 0, 52, de la REPUBLICA DE ESTADOS UNIDOS DE AMERICA.

Que en esta consulta o plebiscito, se garantice la equidad y la justicia entre las distintas formulas. La Ley 600 de 1950 y Resolución Número 23 de la Convención Constituyente de Puerto Rico de 1952, dentro de los términos del convenio acordado con los Estados Unidos, reconocen EL DERECHO A LA LIBRE EXPRESION Y DETERMINACION del pueblo de Puerto Rico a su máximo desarrollo a gobierno propio.

Honorable Gobernador, usted sería el primer Presidente de Puerto Rico, definiciones de la REPUBLICA ASOCIADA: De incluirse en este plebiscito, obtenerse mayoría, 51 por ciento o más, de ser la libre determinación del pueblo de Puerto Rico en este plebiscito y aprobado por el Congreso de los Estados Unidos.

Las próximas elecciones generales desde 1996 deberán ser elecciones de Presidentes de Puerto Rico: PNP, PPD, PIP o CANDIDATO INDEPENDIENTE hasta que Puerto Rico sea Estado Federado.

El status político, en todas las elecciones generales para Gobernador, no han estado en " ISSUE " desde 1952 a 1992 ni estarán en "ISSUE " ¿ Status quo por los próximos 25 a 50 años? Definición de " COMMONWEALTH " REPUBLICA. La soberanía de una REPUBLICA puede estar compartida con otra nación. (La EX-UNION SOVIETICA )

#### LAS 936 BAJO LA ESTADIDAD O REPUBLICA ASOCIADA

No podrá haber estadidad para Puerto Rico. Sería discriminación política con las demás corporaciones de la Unión Americana.

PROTECCION DE LOS EMPLEADOS DE LAS 936 QUE ABANDONEN LA ISLA

Honorable Gobernador - 3

4 de julio de 1993

- 1) El gobierno compraría el inventario, patentes de marca y de invención, continuar operándolas y venta de acciones a los empleados para que se conviertan en dueños.
- 2) Comprar acciones de las que se queden y venderlas a los empleados y al pueblo de Puerto Rico.
- 3) Iniciar un procedimiento o una formula acordada para el desarrollo de una aportación a la carga financiera de la Union, (Parte III, Art.16, Definición de la REPUBLICA ASOCIADA, 1991).

La mayoría de las definiciones de 1991 del PIP, Independencia Socialista para este plebiscito, será una copia de las definiciones básicas de la REPUBLICA ASOCIADA, de usar el PIP dicha formula plebiscitaria de 1991. (Cuidadania Común, moneda común, mercado común y otras definiciones básicas como puertorriqueños y americanos).

Se incluye fotocopia de las definiciones básicas de la REPUBLICA ASOCIADA sometidas al Honorable Ex Gobernador de Puerto Rico, Don Rafael Hernández Colón el 7 de enero y el 30 de enero de 1989 al EX-Presidente de Estados Unidos, Sr. George Bush.

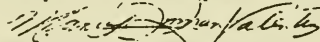
De no incluirse dicha cuarta formula plebiscitaria, REPUBLICA ASOCIADA, en esta consulta o plebiscito, no sería la libre determinación del pueblo de Puerto Rico hacia nuestro futuro status. Sería otro engaño más como sucedió en la elección general de noviembre de 1992 para gobernador y sus formulas de status.

En la elección general de 1952, se cometió DISCRIMINACION POLITICA con mi candidatura para gobernador, NOMINACION DIRECTA y la formula de REPUBLICA ASOCIADA por todos los analistas políticos, radio, televisión, panelistas sobre el status y por la prensa democrática en sus debates televisados y noticieros.

La Ley de Consulta o Plebiscito para celebrarse el 14 de noviembre de 1993 será aprobada hoy con su firma como Gobernador.

Le agradeceré que en nuestro sistema de gobierno democrático se incluya la REPUBLICA DEMOCRATICA, cuarta formula plebiscitaria, y se incluya en las consultas sobre status político.

Respetuosamente quedo de Ud.,



MANUEL ROMAN VALENTIN

MR/  
FC:

The President of the United States



Honorable Gobernador - 4

4 de julio de 1993

The Hon. Ron De Lugo President Sub-  
 Commission Of Insular and Inter-  
 national Affairs, U. S. House  
 of Representatives  
 Comisión Estatal de Elecciones  
 Hon. Senador Roberto Rexach Benitez,  
 Presidente del Senado  
 Hon. Representante Zaida Hernández,  
 Presidenta, Cámara de Representantes  
 Hon. Representante Pedro Figueroa Costa  
 Copresidente Comisión Conjunta Asamblea Legislativa  
 Hon. Senador Miguel Hernández Agosto y  
 Presidente PPD  
 Hon. Senador Rubén Berrios y  
 Presidente PIP  
 Hon. Carlos Romero Barceló, Comisionado  
 Residente en Washington  
 The Hon. José Serrano, Rep. N.Y.  
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 Prensa de Puerto Rico

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## COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515

March 22, 1989

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RICHARD AGNEW  
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Manuel E. Roman Valentin  
P. O. Box 417  
Mayaguez, Puerto Rico 00709

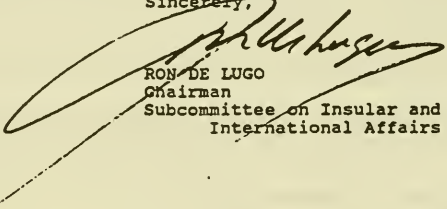
Dear Mr. Valentin:

Thank you for sending me a copy of the letter which you wrote to the President of the United States on January 30, 1989, in which you discuss the issue of Puerto Rico's political status, expressing that the concept of "Republica Asociada" be included in future Congressional hearings regarding the plebiscite.

I agree with you that all points of view need to be represented in any determinations relating to the political status of Puerto Rico, as this issue is of such consequence for the people of Puerto Rico.

I appreciate your writing me on this matter.

Sincerely,

  
 RON DE LUGO  
 Chairman  
 Subcommittee on Insular and  
 International Affairs

RdL/ng

J. BENNETT JOHNSTON  
LOUISIANA

## United States Senate

WASHINGTON, DC 20510

April 11, 1989

Mr. Manuel E. Roman Valentin  
P.O. Box 417  
Mayaguez, Puerto Rico 00709

Dear Mr. Valentin:

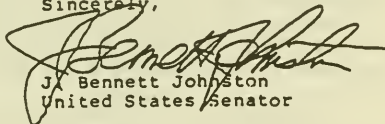
Thank you very much for your letter on statehood for Puerto Rico and your thoughts on the status issue. I appreciate the material you have provided me with which you have requested be included in the hearings. You have addressed some valid points I expect will be addressed during these upcoming hearings, and I expect many witnesses to be testifying on these important matters you have addressed.

In order to assure a full spectrum of views are represented I am conducting hearings both here in Washington and Puerto Rico.

Please rest assured of my commitment to developing a process that will allow all views to be heard, and which will treat each of the status options fairly and equitable. Only under such a process can the people of Puerto Rico choose with a full understanding of the issues.

With kindest regards, I am

Sincerely,



J. Bennett Johnston  
United States Senator

JBj:dd

REPUBLICA ASOCIADA ( REPUBLICA DEMOCRATICA PUERTORRIQUEÑA )  
CREADOR: MANUEL ROMAN VALENTIN - 28 DE ABRIL DE 1980

FUTURO CANDIDATO INDEPENDIENTE PARA GOBERNADOR  
DE PUERTO RICO - ELECCIONES GENERALES DE 1992  
Y PLEBISCITO DE 1991

APARTADO 417 MAYAGUEZ, PUERTO RICO 00709 - TEL. (809) 833-5810

January 19, 1991

The Honorable Bennett Johnston  
Chairman of The Senate Energy and  
Natural Resources Committee  
United States Senate  
Washington, D. C. 20510

Subject: Congressional Hearings, Senate, January 30, 1991  
Puerto Rico's Self-Determination Plebiscite, 1991 or 1992

Sir:

I am pleased to submit the concepts of the ASSOCIATED REPUBLIC to be included in this Congressional hearings under Puerto Rico's Electoral Law of 1977, PLEBISCITE, TITLE VII, Article 7.006 Participation of Political Parties and Individual Persons", and also, under Articles 7.001 through 7.010. This NEW DEMOCRATIC INDEPENDENCE should be or must be included together with the formulas for statehood, Socialist independence and enhanced commonwealth for this plebiscite.

#### 1. INTRODUCTION

—My name is MANUEL ROMAN, the future independent candidate for governor of Puerto Rico, general election of 1992 and the only creator of the ASSOCIATED REPUBLIC for Puerto Rico. My thesis of 1980 was addressed to former U.S. Presidents Jimmy Carter and Ronald Reagan. The enclosed definitions will be my main political campaign in our general election of 1992 or in our plebiscite of 1991 or 1992.

Resolution 23 of Puerto Rico's Conventional Constitution of 1952 and Public Law 600 of 1950 recognize the right to self expression and determination of the people of Puerto Rico toward the maximum of self government.

All plebiscite or referendum in Puerto Rico must be accomplished in accordance with PUERTO RICO'S Electoral Law of 1977, TITLE VII, Article 7.001 through Article 7.010.

The Referendum for Public Law 600 of 1950 was accomplished and approved under the laws of Puerto Rico. In 1952 Puerto Rico obtained the internal independence under our Constitution of 1952 and Public Law 600 of 1950. Any future decision by the people of Puerto Rico and the U.S. Congress could create a different political status in our relationship with the United States.

About 90 - 95 per cent of the ASSOCIATED REPUBLIC'S MAIN DEFINITION was approved in 1989 and 1990 by the U.S. Senate Energy and Natural Resources Committee and The House Insular and International Affairs Subcommittee, but under a SOCIALIST INDEPENDENCE. However, the military bases will remain in Puerto Rico under the ASSOCIATED REPUBLIC.

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The Honorable Bennett Johnston, January 17, 1971. page 4

## II. THE ASSOCIATED REPUBLIC ( PUERTO RICO DEMOCRATIC REPUBLIC ) MAIN DEFINITIONS AS PUERTO RICANS AND U.S. CITIZENS

1. The American citizenship and permanent union with the United States are the most important issues of the 95 percent of the people of Puerto Rico and have been our political reality since 1952.
2. The ASSOCIATED REPUBLIC is the culmination of the commonwealth status until Puerto Rico becomes a federal state of the Union with full obligation, participation, responsibility to share the financial burden of the Union and loyalty to the principles of the United States Constitution, or, until the people of Puerto Rico resign the American citizenship.
3. Retains the political rights of statehooders and other Puerto Ricans for statehood in a plebiscite YES OR NO in every second or in any other general elections. Statehood is the only permanent plebiscite formula as Puerto Ricans and U. S. citizens.
4. The concepts of the Commonwealth status, JONES ACT of 1917: Common citizens, currency, market, security and common defense will continue, including the U. S. Military bases and permanent union in our future relationship with the United States.

## III. FORM OF GOVERNMENT AND POLITICAL PLATFORM

1. Republican form with the executive, judicial and legislative powers. A democratic REPUBLIC with a capitalistic system.
2. The transfer to the people of Puerto Rico the sovereignty power and the functions which are vested in the Federal Government.
3. The right to self determination of the people of Puerto Rico to withhold or resign the American citizenship.
4. The right to self determination of the U.S. citizens with one year or over residing in Puerto Rico to withhold or resign the Puerto Rican citizenship, Article 5, JONES ACT of 1917, Congress, March 4, 1927 and Article 5 a. Public Law 600.
5. The rights, privileges, and immunities of the people of Puerto Rico relating to social, economic aid, and armed forces pensions earned as U. S. citizens during world wars and military engagements involving the United States, including Social Security and Federal pensions earned as an American workers.
6. The transfer to the people of Puerto Rico of all land, buildings, navigable waters, and body of waters which have been acquired by the United States under the Treaty of Peace, 1898.
7. The United States may continue to use for public purposes that property which is now being used for such purposes.
8. Spanish and English will be our official languages.
9. The U. S. Citizenship will be controlled by the United States or mutual consent between our two nations.
10. All imports will be under the control of the Puerto Rican Custom and Puerto Rico's Treasury Department.

The Honorable Bennett Johnston, January 19, 1991, page 3

11. JONES ACT OF 1917 ON NATIONALITY LAW, article 3, NATIONALITY LAW of 1940-Public LAW- No. 653, Congress 76, approved, October 14, 1940 and all other nationality law, should applied to residence of Puerto Rico, with the approval of the U.S. Congress or mutual agreement between our two nations.

12. The political right of all children born in Puerto Rico under the ASSOCIATED REPUBLIC to retain the American citizenship. The U.S. citizenship was granted to the people of PUERTO RICO and not to the territory. Supreme's Court Decision, Balzac Vs. people of Puerto Rico, case 258, U.S. 298, 1922.

13. All Puerto Ricans withholding the U. S. citizenship will recognize the United States and Puerto Rico's Presidents as our two Presidents and both countries as our two nations, including our two Constitutions.

14. Retains The Federal District Court for protection of our Bill of Rights, democracy, individual liberty, and Human Rights.

15. Entry of aliens into Puerto Rico should be under the control of Puerto Rico to alleviate our over population and employments.

16. To develop in the future a method or procedure for contribution by Puerto Rico to the general financial burden of the Union.

This has been a lack since the founding of the Commonwealth of Puerto Rico ( a concept of one Ex Governor of the island, Honorable Luis Muñoz Marín, Rest In Peace)

17. The United States and the Commonwealth Constitution will continue to be our two Constitutions as Puerto Ricans and U. S. citizens under the inviolability of the American citizenship.

18. The name of Commonwealth in our Constitution will be replaced to PUERTO RICO DEMOCRATIC REPUBLIC with internal and external sovereign power.

19. The governor will become President and limited two terms in office or not more than ten years in office. The Resident Commissioner will become Ambassador to the United States.

20. This new sovereignty will strengthen even more Puerto Rico's relationship with the United States with a maximum of political dignity, stability, and a very strong bond to defend individual liberty, democracy, human rights and justice.

21. This new sovereignty will not be imposed by U. S. Congress. It will be the self determination of the people of Puerto Rico if approved in a referendum or plebiscite, including a plebiscite in our general election.

22. Puerto Ricans who resign the U. S. citizenship do not have to make an oath to the U.S. Constitution in any government agency.

23. JONES ACT OF 1917 ON NATIONALITY LAW, ARTICLE 3, NATIONALITY LAW OF 1940-PUBLIC LAW-853, CONGRESS 76, APPROVED IN OCTOBER 14, 1940, AND ALL OTHER NATIONALITY LAW:

a. Should be applied to residence of Puerto Rico regarding citizens from other nations. The American citizenship of these citizens will not applied unless approved by the United States.

The Honorable Bennett Jonheton, January 19, page 4

b. Citizens from other nations could retain their political status or become citizens of the Republic of Puerto Rico.

#### IV. U.S. ECONOMIC AID

U.S. Economy Aid should be the same and the welfare should gradually be reduced on mutual concept between Puerto Rico and the United States. Reductions in the welfare will be replaced by:

- a) Puerto Rico's budget, special lotteries, and sales tax.
- b) From 936 Corporations and other tax exempted enterprises under the Commonwealth status.
- c) Will be replaced by on the JOB TRAINING in productivity with employments in industrial, construction or other work.
- d) The government will paid 50 per cent of the minimum salary and the employer the other 50 percent.

#### PRESIDENTIAL VOTE AS PUERTO RICANS AND U. S. CITIZENS

1. All U. S. citizens should have the political right to vote for the President and Vice President of the United States.
2. The place of residence should not be the basis for denying the right to vote.
3. Since 1917 the Presidents of the United States became Presidents of the people of Puerto Rico, as U.S. citizens, under JONES ACT of 1917. Puerto Ricans and the national guards of Puerto Rico have been in world wars and military engagements involving the United States by order of the Presidents of the United States and Congress.
4. The right to vote for the President and Vice president of the United States is one of the most fundamentals principles of all U.S. citizens in a democratic governments. Territories and Commonwealths of the United States should also have this right to vote.

#### VI. ECONOMIC DEVELOPMENT UNDER THE ASSOCIATED REPUBLIC

1. 100 percent TAX-EXEMPT INTEREST INCOME on personal and corporations on money deposited in our local banks and held for TEN YEARS OR MORE.
2. The concepts of common citizens, currency, market, common security and defense. The U. S. military bases, and a permanent union, will continue to strengths our social, political stability, economic growth and trade relations with the United States,
3. Pensions earned from the armed forces, Social Security, and federal pensions will also improve our social condition and economic growth.
4. The substitution of the excise tax of products and articles from the United States for a sales tax, import duties and sales tax on other products and articles sold in Puerto Rico from other nations.

The Honorable Bennett Johnston, January 19, page 5

5. MAIN DEFINITIONS, FORM OF GOVERNMENT, ECONOMIC AID and the PRESIDENTIAL VOTES FOR THE U.S. PRESIDENTS, IF APPROVED, will also increase our trade relationship with the United States and international nations.

#### 6. 936'S CORPORATIONS

a) Have been playing one of the most important role in our social condition, political stability, and economic development. However, 70 - 75 per cent of our people pay no income tax.

b) The time has come to share Puerto Rico's financial burden due to our high cost of Education, Health-Care, Government salaries, the island infrastructure, and public debt of \$12,175.00 MILLIONS

#### VII. SELF EXECUTING PROVISIONS

1. Majority of 51 per cent or over should be required for the four plebiscite formulas submitted for this plebiscite of 1991.

2. This plebiscite will be the future political status of People of Puerto Rico. It is NOT for the election of the Governor or President of Puerto Rico.

3. Implementation of less than 51 percent will be against the majority of Puerto Ricans, Resolution 23, Puerto Rico's Constitutional Convention of 1952.

#### VIII. EFFECTIVE DATE

1. January 1, 1993 for implementation of the ASSOCIATED REPUBLIC, if approved by the people of Puerto Rico in a special referendum or in our general election and by the United States Congress.

#### IX. ADDITIONAL INFORMATION:

The subscriber is also a veteran of the U.S. Armed Forces, volunteer from 1952 (Korean and Vietnam wars) to January 1968, with sixteen years of active service and eleven years with the Puerto Rico Air National Guard: 27 years in defense of our democracy, liberty, and our Constitutions as Puerto Rican and U. S. citizen.

In 1952 Puerto Rico became an ASSOCIATED REPUBLIC of the United States under the definitions of a REPUBLIC:

a) REPUBLIC: " Form of government in which the sovereignty power rest with the people, even though the people may hold only FORMAL AND NOT ACTUAL SOVEREIGNTY". ( encyclopedia Americana, Vol.23, Page 391).

b) REPUBLIC: " A commonwealth: a political community in which the supreme power in the state is vested either in certain privileged members of the community, and thus varying from the most exclusive oligarchy to a pure democracy ( Webster Dictionary, page 714)

A Socialist, Communist, or a Marxist independence might take hundreds or thousands of years to become a political reality in Puerto Rico.



The Honorable Bennett Johnston, January 19, 1991, page 7

cc The Honorable Robert Dole  
 The Honorable George Mitchell  
 The Honorable William Bradley  
 The Honorable Patrick Moynihan  
 The Honorable Lloyd Bentsen  
 The Honorable Dale Bumpers  
 The Honorable Jesse Helms  
 The Honorable Joseph Biden  
 The Honorable Ron De Lugo  
 The Honorable Morris K. Udall  
 The Honorable Thomas Foley  
 The Honorable Lagomarsino  
 The Honorable Robert Mitchell  
 The Honorable Bill Gray  
 The Honorable Newton Grinich  
 The Honorable José Serrano  
 The Honorable Charles Rangel  
 The Honorable James Quillen  
 The Honorable Bill Richardson  
 The Honorable George Miller  
 The Honorable Joe Moakley  
 The Honorable Jaime Fuster, Puerto Rico's Resident Commissioner  
 Lcdo. Rafael Hernández Colón, Popular Democratic Party President  
 and Governor of Puerto Rico  
 Lcdo. Carlos Romero Barceló New Progressive Party President  
 Lcdo. Rubén Berrios, Puerto Rican Independence Party  
 President  
 Puerto Rico's Electoral Commission





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